

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.06.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

WP.No.11743/2018 & WMP.No.13171/2018

R.Balamurugan

..

Petitioner

Versus

1.The Secretary to Government
Housing and Urban Development
Department, Government of
Tamil Nadu, Chennai.

2.The Executive Engineer
Greater Chennai Corporation
Zone-III, Chennai.

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Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the 1st respondent to take up the petitioner's petition for interim stay dated 30.04.2018 filed in the Statutory Appeal dated 30.04.2018 before the 1st respondent against the Notice No.4/5/DN/26/2018 dated 24.03.2018 issued by the 2nd respondent herein and to pass orders on the interim stay petition within a reasonable time to be fixed by this Court without disturbing the petitioner's peaceful possession and enjoyment over his property.

For Petitioner : Mr.K.Karthik Jagannath
For R1 : Mr.A.N.Thambidurai,
Spl.GP
For R2 : Mr.A.Nagarajan

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

By consent, the writ petition is taken up for final disposal. Mr.A.N.Thambidurai, learned Special Government Pleader appears on behalf of the 1st respondent and Mr.A.Nagarajan, learned Standing counsel appears on behalf of the 2nd respondent.

building bearing Flat No.G1, "B" Block, Alvin Flats, Glory Park, No.5, Umapathy Nagar Main Road, Vinayagapuram, Chennai-600 099 and it is used for dwelling purposes. The petitioner would further ave that alleging certain deviations in the building, the 2nd respondent had issued a notice dated 24.03.2018 u/s.56 read with 85 of the Tamil Nadu Town and Country Planning Act, 1971 [in short the "TCP Act, 1971"] and challenging the legality of the same, the petitioner has filed a special revision/appeal u/s.80-A of the said Act along with a petition for stay u/s.80-A[iii] of the TCP Act, 1971 on 30.04.2018 and it was received and acknowledged on the same day.

3 The learned counsel appearing for the petitioner would submit that despite receipt and acknowledgment of the special revision/appeal along with the petition for stay, steps are being taken to demolish the alleged offending construction and therefore, would pray that the 1st respondent - Appellate/Revisional Authority may be directed to consider the petition for stay at the first instance and give a disposal in accordance with law and further, a direction may be issued to the said authority to take up the main appeal/revision itself and give a disposal on merits and in accordance with law.

4 The Court heard the submissions of Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the 1st respondent and Mr.A.Nagarajan, learned Standing counsel appearing for the 2nd respondent and perused the materials placed before it.

5 It is relevant to extract the details of the alleged deviations pointed out by the 2nd respondent in his notice dated 24.03.2018;-

Deviation Details for Plot B

S.No	Description	As per approved Plan sq.m	As on site sq.m.	Deviation sq.m.
1	Northern side set back	23.53	12.21	11.32
2	Southern side set back	24.00	20.70	3.30
3	Rear side set back	20.93	10.78	10.15
4	Front side set back	18.45	14.52	3.93

S.No	Description	As per approved Plan sq.m	As on site sq.m.	Deviation sq.m.
5	Stilt floor [ground Floor]	82.35	131.71 [Approved for only Lumber, Meter Room and Watchman room but construction 2 dwelling units instead of the approval]	131.71
6	First Floor	154.37	174.75	20.38
7	Second Floor	154.37	174.75	20.38

6 This Court, taking into consideration, the above facts and circumstances and without going into the merits of the claim projected by the petitioner and that considering the limited scope of prayer sought for by him, directs the 1st respondent to entertain the said special revision/appeal along with the petition for stay, if the papers are otherwise in order and thereafter, the 1st respondent or the Delegated Authority take up the petition for stay at the first instance and give a disposal in accordance with law within a further period of six weeks from the date of receipt of a copy of this order and till such time, the 2nd respondent shall defer further decision in terms of the impugned notice dated 24.03.2018. The 1st respondent or the Delegated Authority is also at liberty to take up the main appeal/special revision itself and give a disposal on merits and in accordance with law within a period of ten weeks from the date of entertainment of the same and communicate the decision taken, to the petitioner herein.

7 The writ petition stands disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

AP

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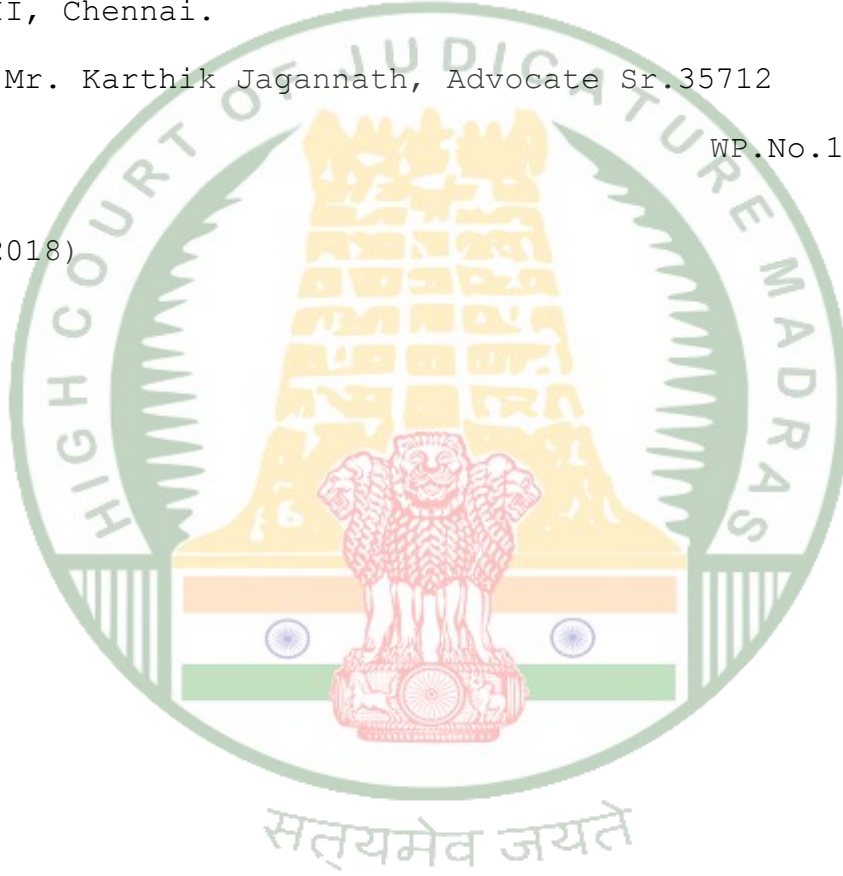
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+ 1 cc to Mr. Karthik Jagannath, Advocate Sr.35712

WP.No.11743/2018

(CS-V)
EU(03/07/2018)



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