

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2018

CORAM

THE HONOURABLE MR. JUSTICE R. SUBBIAH
AND
THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 1368 of 2018
&
W.M.P. No. 1739 of 2018

Prashant Bokaria

..Petitioner

Vs.

1. The Corporation of Chennai
rep. by its Commissioner,
Ripon Building,
Chennai - 600 003.
2. The Executive Engineer,
Zone VIII,
O/o. Regional Deputy Commissioner
(Central),
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.
3. The Government of Tamil Nadu,
rep. by its Secretary to Government,
Housing and Urban Development
Department,
Fort St. George,
Chennai - 600 009.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus forbearing the 1st and 2nd respondents or anybody on their behalf from initiating any coercive action of locking and sealing and demolition with regard to the building put up at No. 21/13, Plot No.377, I Block, Anna Nagar (East), Chennai - 600 102 pending determination of the Revision Petition submitted by the petitioner under Section 80-A and 80-A(3) of the Tamil Nadu Town and Country Planning Act dated 13.10.2017 with the 3rd respondent.

For Petitioner :: Mr.R. Mohan

For Respondents:: Mr.A. Nagarajan,
Standing Counsel for R1 and R2
Mr.A.N. Thambidurai,
Special Govt. Pleader for R3

O R D E R

(Order of the Court was made by R. SUBBIAH,J.)

Mr.A. Nagarajan, learned Standing Counsel takes notice for respondents 1 and 2 and Mr.A.N. Thambidurai, learned Special Government Pleader takes notice for the 3rd respondent.

2. The present writ petition has been filed seeking issuance of a Writ of Mandamus forbearing the 1st and 2nd respondents or anybody on their behalf from initiating any coercive action of locking and sealing and demolition with regard to the building put up at No. 21/13, Plot No.377, I Block, Anna Nagar (East), Chennai - 600 102 pending determination of the Revision Petition submitted by the petitioner under Section 80-A and 80-A(3) of the Tamil Nadu Town and Country Planning Act dated 13.10.2017 with the 3rd respondent.

3. The case of the petitioner is that the subject property, which originally belonged to his wife, was settled by her in his favour, vide document dated 07.01.2014. Thereafter, as the owner of the subject property it was developed by him after obtaining planning permission from Corporation of Chennai vide PPA No. 9652/2013 dated 13.12.2013 for constructions of basement + stilt + two floors of cottage industry cum residential unit. The building permit was also accorded for the same. The entire construction was completed and the same was also put to occupation for cottage industry cum residential use. The property tax is also assessed for the building by the Corporation of Chennai. Further, according to the petitioner, there are no major violations and deviations except partial coverage in the basement and the stilt floor which can always be exempted and regularised by the 3rd respondent under Section 113 of Town and Country Planning Act. While so, a notice contemplating locking and sealing of the building was issued on 05.10.2017 by the 2nd respondent under Section 56 read with Sections 57 and 85 of Town and Country Planning Act, which according to the petitioner is violative of principles of natural justice and against the provisions of Town and Country Planning Act and Development Rules and Regulations, since the building is not an unauthorised construction and even assuming there are violations and deviations, there are provisions under the said Act enabling the 3rd respondent to exempt and regularise

the same. Aggrieved by the said notice, the petitioner preferred a Special Revision Petition as well as stay petition under Section 80-A and 80-A(3) of Town and Country Planning Act to the 3rd respondent Government on 13.10.2017 and the same is pending. That being so, apprehending coercive action at the hands of respondents 1 and 2, during the pendency of the Special Revision Petition, the petitioner has come forward with the present writ petition.

4. Learned counsel for the petitioner has brought to the notice of this Court the order dated 04.08.2017 passed by a Division Bench of this Court in W.P. No. 20854 of 2017, in similar circumstances and submitted that following the same, similar orders could be passed in this writ petition as well.

5. Considering the facts and circumstances of the case, the 3rd respondent is directed to consider the Special Revision Petition and stay petition filed by the petitioner on 13.10.2017 and pass appropriate orders on merits and in accordance with law, after affording an opportunity of hearing to the petitioner as well as to any other necessary parties concerned with the issue, on or before 31.03.2018. Till the disposal of the Special Revision Petition, no coercive steps shall be taken by respondents 1 and 2. The writ petition is disposed of accordingly. No costs. Connected W.M.P. is closed.

Sd/-
Assistant Registrar(CS VI)

//True copy//

Sub Assistant Registrar

nv

To

1.The Commissioner,
The Corporation of Chennai
Ripon Building,
Chennai - 600 003.

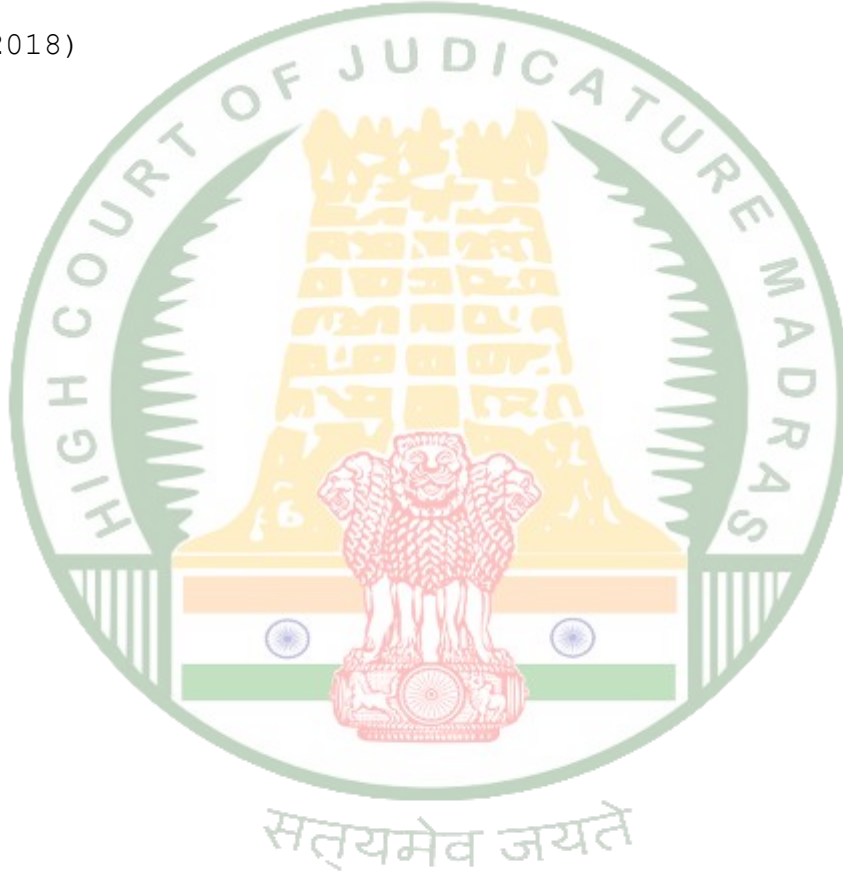
2. The Executive Engineer,
Zone VIII,
O/o. Regional Deputy Commissioner
(Central),
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.

3.The Secretary to Government,
The Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George,
Chennai - 600 009.

+1cc to Mr.R.Mohan, Advocate SR.No.4910
+1cc to Mr.A.Nagarajan, Advocate SR.No.5603

W.P. No. 1368 of 2018

GN(21/02/2018)



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