

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. 1370 of 2018
&
W.M.P. No. 1741 of 2018

B. Janakiramiah

..Petitioner

Vs.

1. The Corporation of Chennai
rep. by its Commissioner,
Ripon Building,
Chennai - 600 003.
2. The Executive Engineer,
Zone V,
Corporation of Chennai,
No.61, Basin Bridge Road,
Chennai - 600 021.
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.12/13, Rathinam Street, Kondithoppe, Chennai - 79 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.K. Kamalakasan

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. 12/13, Rathinam Street, Kondithoppe, Chennai - 79 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 he is the owner of the subject property, having purchased the same in the year 2008. After the said purchase, in order to develop the property, without disturbing the original structures, the petitioner obtained planning permission from the 1st respondent in PPA No. 3402/2009 dated 24.07.2009. The entire construction was completed in the year 2009 and the building was assessed to payment of property tax by the Corporation of Chennai since 2010. According to the petitioner, though additions have been made to the building over and above the plan approval, the same is exemptable under Sections 113 & 113 C of Town and Country Planning Act. That being so, a de-occupation notice dated 06.10.2017 under Section 56(2)(A) of Town and Country Planning Act was issued by the Corporation of Chennai contemplating locking and sealing action of the premises in question, which according to the petitioner is violative of principles of natural justice and contrary to the provisions of Town and Country Planning Act. 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.

s/d-

Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

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To

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rep. by its Commissioner,
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rep. by its Secretary to Government,
Housing and Urban Development
Department,
Fort St. George,
Chennai - 600 009.

+1 CC to The Govt. Pleader sr 5516
+1 CC to Mr.A. Nagarajan, Advocate sr 5605.
+1 CC to Mr.A. Kamalakasan, Advocate s 4911.

W.P. No. 1370 of 2018

SP(19/02/2018)