

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. 1371 of 2018
&
W.M.P. No. 1742 of 2018

Sunil P. Pitaliya

..Petitioner

Vs.

1. The Chennai Metropolitan
Development Authority,
rep. by its Member Secretary,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 8.
 2. 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.6, Vasan Street, T. Nagar, Chennai - 17 comprised in T.S. No. 7636/1, T. Nagar Village, 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 18.07.2017 with the 2nd respondent.

For Petitioner :: Mr.R. Mohan

For Respondents:: Mr.C. Johnson for R1
Mr.A.N. Thambidurai,
Special Govt. Pleader for R2

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

Mr.C. Johnson, learned Standing Counsel takes notice for the 1st respondent and Mr.A.N. Thambidurai, learned Special Government Pleader takes notice for the 2nd 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.6, Vasan Street, T. Nagar, Chennai - 17 comprised in T.S. No. 7636/1, T. Nagar Village, 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 and decided to develop the same, for which purpose, he applied for planning permission to the 1st respondent for construction of Ground cum Stilt (part) + 3 floors + 4th floor (part) of residential cum office building. The 1st respondent accorded approval vide letter dated 04.10.2011. Thereafter, the Corporation of Chennai in BA. No. 00292/2011 dated 13.12.2011 has accorded licence for the same. During the course of constructions, according to the petitioner, certain variations in the constructions from the original approved plan were made without comming any major floor violations or set back deviations. The entire construction was completed as early as in the year 2012 and the building was also occupied. It is stated by the petitioner though there are certain violations and variations in the construction made, they cannot be said to be major violations and are exemptible by the Government by invoking powers under Section 113 of Town and Country Planning Act. The petitioner would further state that he has also submitted a revised plan under Section 49 of the Town and Country Planning Act fo regularisation. That being so, after five years of construction, a notice dated 27.06.2017 was issued under Section 56 of the Town and Country Planning Act by the 1st respondent contemplating locking and sealing of the premises followed by a de-occupation notice dated 21.09.2017 under Section 56(2)(A) of Town and Country Planning Act to proceed with locking and sealing action of the premises in question, which acccording 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 2nd respondent Government on 18.07.2017 and

the same is pending. That being so, apprehending coercive action at the hands of 1st respondent, 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 2nd respondent is directed to consider the Special Revision Petition and stay petition filed by the petitioner on 18.07.2017 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

1. The Chennai Metropolitan
Development Authority,
rep. by its Member Secretary,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 8.
2. The Government of Tamil Nadu,
rep. by its Secretary to Government,
Housing and Urban Development
Department,
Fort St. George,
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+1 CC to Mr.R. Mohan, Advocate sr 4915.
+1 CC to Mr.C. Johnson, Advocate sr 5099.
+1 CC to The Govt. Pleader sr 5517.

W.P. No. 1371 of 2018

SP(19/02/2018)