

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. 1379 of 2018

&

W.M.P. No. 1748 of 2018

1. M. Sohan Raj
2. Lalitha Devi
3. R. Uttam Singh
4. Bharat Singh
5. Ruparam
6. Rubi Devi
7. Gajaram
8. Uiji Devi

...Petitioners

Vs.

1. The Government of Tamil Nadu,
rep. by its Secretary to Government,
Housing and Urban Development
Department,
Fort St. George,
Chennai - 600 009.
2. The Greater Chennai Corporation,
rep. by its Commissioner,
Rippon Buildings,
Chennai - 600 003.
3. The Executive Engineer,
Zone V,
Greater Chennai Corporation,
61, Basin Bridge Road,
Chennai - 21.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus forbearing the 2nd and 3rd respondents from in any way interfering with the petitioners' premises at Door No.77/47&48, Varada - Muthiyappan Street, Kothavalchavadi, Sowcarpet, Chennai - 600 001 comprised in R.S. No. 5913/1, Block No. 52 of V.O.C. Nagar Village, Chennai, more particularly by way of locking, sealing and demolition of the same, pending final determination of the Special Revision Petition and stay petition dated 05.10.2017 filed under Section 80-A and 80-A(3) of the Tamil Nadu Town and Country Planning Act with the 1st respondent.

For Petitioners :: Mr.L. Chandrakumar

For Respondents :: Mr.A.N. Thambidurai,
Special Govt. Pleader for R1
Mr.K. Soundararajan,
Standing Counsel for R2 & R3

O R D E R

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

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

2. The present writ petition has been filed seeking issuance of a Writ of Mandamus forbearing the 2nd and 3rd respondents from in any way interfering with the petitioners' premises at Door No.77/47&48, Varada - Muthiyappan Street, Kothavalchavadi, Sowcarpet, Chennai - 600 001 comprised in R.S. No. 5913/1, Block No. 52 of V.O.C. Nagar Village, Chennai, more particularly by way of locking, sealing and demolition of the same, pending final determination of the Special Revision Petition and stay petition dated 05.10.2017 filed under Section 80-A and 80-A(3) of the Tamil Nadu Town and Country Planning Act with the 1st respondent.

3. The case of the petitioners is that the subject property was originally owned by one G.V. Narasimha Rao. The said G.V. Narasimha Rao, with a view to construct an office cum residential building in the subject property, had applied to the Corporation of Chennai and the Corporation of Chennai had also accorded sanction of planning permission in Ppa No. D2/00264/2010 and building Permission No.BA/D200442 of 2010, both dated 05.02.2010. After obtaining planning approval, the owner had paid all the tax and got mutation of revenue records in his name. Subsequently, the said G.V. Narasimha Rao had decided to sell the aforesaid vacant land and the petitioners had offered to buy the same. Accordingly, by virtue of registered sale deed dated 28.03.2012 vide Doc. No. 406/2012, the subject property was sold to the petitioners and soon after, the petitioners had commenced the construction and completed the same in the year 2013. The building has been assessed for property tax by the Corporation of Chennai and the petitioners had paid all the tax pertaining to the above said property. The petitioners had sold a portion of the property to other owners, where they are carrying on their business and as on date, the petitioners are owning major portion of the subject property. Due to minor deviations in the aforesaid building, a stop work

notice had been issued to the petitioners for which suitable reply has been given by the petitioners enclosing necessary documents. In spite of the same, a de-occupation notice dated 19.09.2017 has been issued to the occupiers and tenants of the subject property by the Corporation of Chennai. Aggrieved by the said notice, the petitioners have 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 1st respondent Government on 05.10.2017 and the same is pending. That being so, apprehending coercive action at the hands of respondents 2 and 3, during the pendency of the Special Revision Petition, the petitioners have come forward with the present writ petition.

4. Learned counsel for the petitioners 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 1st respondent is directed to consider the Special Revision Petition and stay petition filed by the petitioners on 05.10.2017 and pass appropriate orders on merits and in accordance with law, after affording an opportunity of hearing to the petitioners 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 2 and 3. The writ petition is disposed of accordingly. No costs. Connected W.M.P. is closed.

Sd/-

Assistant Registrar

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

To

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

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2. The Greater Chennai Corporation,
rep. by its Commissioner,
Rippon Buildings,
Chennai - 600 003.

3. The Executive Engineer,
Zone V,
Greater Chennai Corporation,
61, Basin Bridge Road,
Chennai - 21.

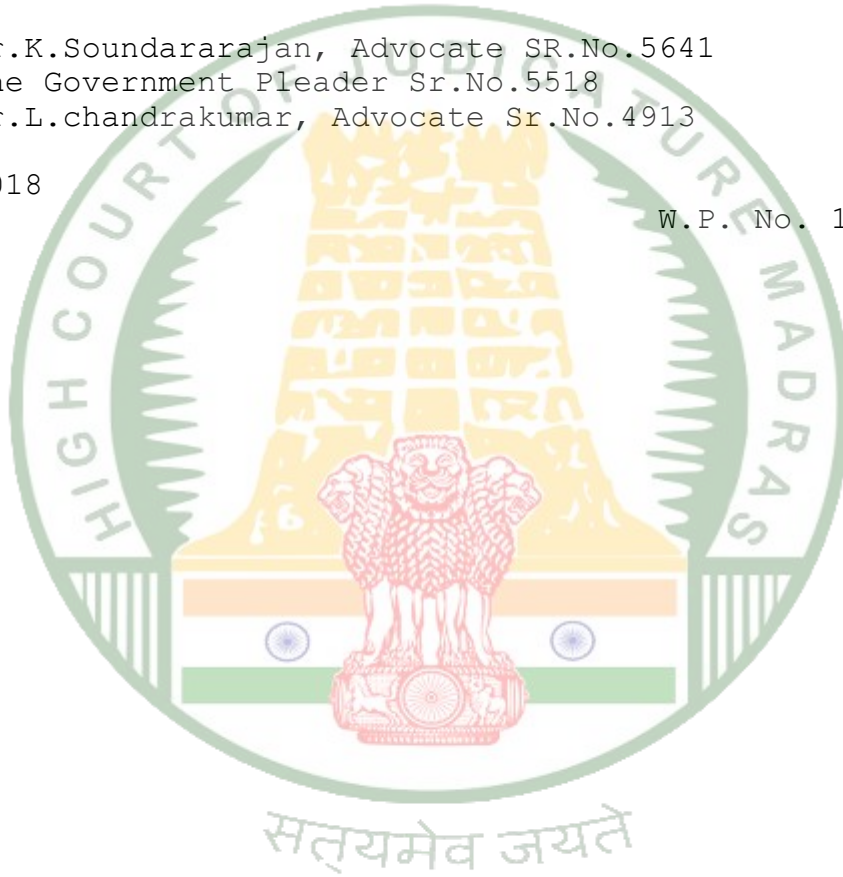
+1cc to Mr.K.Soundararajan, Advocate SR.No.5641

+1cc to the Government Pleader Sr.No.5518

+1cc to Mr.L.chandrakumar, Advocate Sr.No.4913

sm:12.2.2018

W.P. No. 1379 of 2018



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