

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WP.No.14566 of 2018 and W.M.P.No.17198 of 2018

Mrs.Najmunisa

...Petitioner

Vs.

- 1.The Government of Tamil Nadu,
rep.by its Secretary to the Government,
Housing and Urban Development Department,
Fort st.George, Chennai-09.
- 2.The Executive Engineer,
Office of the Corporation, Zone-09
Valluvarkottam, Chennai-600 034.
- 3.The Assistant Executive Engineer,
Office of the Corporation,
Unit-27, Zone-09,
Valluvarkottak, Chennai-600 034.
- 4.The Assistant Engineer,
Office of the Corporation,
Division-114, Zone-09,
Valluvarkottam, Chennai-600 034.
- 5.The Muthavalli,
Jumma Mosque
at No.178, Kutchery Road, Mylapore,
Chennai-600 004.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the 1st respondent herein to consider the revision appeal dated 27.05.2018 which is numbered in File No.11622/UD/6 (1) /18.

For Petitioner : Mr.S.M.Madhusudanan

For Respondents: Mr.R.Udhaya Kumar
Additional Government Pleader
for R1

Mr.A.Nagarajan,
Standing Counsel for R2 to R4

ORDER

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

By consent, the writ petition is taken up final disposal. Mr.R.Udhaya Kumar, learned Additional Government Pleader accepts notice for 1st respondent and Mr.A.Nagarajan, learned Standing counsel accepts notice for respondents 2 to 4.

2. The 5th respondent has granted permission to the petitioner who has become owner of the lease hold rights, to demolish the existing house and constructed a new house at Door no.24/26, Bazaar Road, 3rd lane, Mylapore, Chennai-600 005 consisting of Ground + First Floor subject to compliance of the legal formalities and it appears that the petitioner has proceeded with construction in the form of extra floor without any planning permission or whatsoever. The respondents 2 to 4 issued locking, Sealing and Demolition notice dated 11.05.2018 calling upon the petitioner, pointing out the unauthorized construction of 99.77 sq.m in the Ground Floor of the said premises and calling upon her to restore the land to the original condition and aggrieved by the same, the petitioner said to have preferred the appeal / special revision under Section 80-A of the Town and Country Planning Act, 1971 and it was entertained vide File No.11622/UD/6(1)/18. The grievance expressed by the petitioner is that despite entertainment of the appeal, steps are taken to demolish the superstructure and hence she prays for appropriate orders.

3. Mr.R.Udhayakumar, learned Additional Government Pleader appearing for the respondents would submit that admittedly, the lease hold right was holding in favour of the petitioner and as per the description of the property given under registered document No.1010/88 dated 27.05.1988, what was sold was only Ground+Open Terrace. Admittedly the petitioner has put up an unauthorised construction and therefore, action has been taken rightly in accordance with law.

4. This Court has considered the rival submissions and also perused the materials placed before it.

5. This Court taking into consideration of the above facts and circumstances and without going into the merits of the claim projected by the petitioner in the appeal petition, directs the 1st respondent or the delegated authority to entertain the appeal / Special Revision if the papers are otherwise in order and thereafter consider and dispose of the same on merits and in accordance with law within a period of six weeks from the date of receipt of the copy of this order and communicate the decision taken to the petitioner.

6. With the above direction, the writ petition stands disposed of. No costs.

s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

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To

1. The Secretary to the Government,
Housing and Urban Development Department,
Fort St. George, Chennai-09.

2. The Executive Engineer,
Office of the Corporation, Zone-09
Valluvarkottam, Chennai-600 034.

3. The Assistant Executive Engineer,
Office of the Corporation,
Unit-27, Zone-09,
Valluvarkottam, Chennai-600 034.

4. The Assistant Engineer,
Office of the Corporation,
Division-114, Zone-09,
Valluvarkottam, Chennai-600 034.

+1 CC to Mr. S. Madhusudhanan, Advocate sr 38632.
+1 CC to Mr. A. Nagarajan, Advocate sr 38818.
+1 CC to The Govt Pleader sr 38706.

WP.No.14566 of 2018

SPD(CO)
SP(04/07/2018)