

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2018

CORAM :

The Hon'ble Mr.JUSTICE M.SATHYANARAYANAN

AND

The Hon'ble Mr.JUSTICE G.K.ILANTHIRAIYAN

W.P. No.14881 of 2018
and W.M.P.Nos.17604 and 17605 of 2018

K.V.Rathinam

.. Petitioner

-vs-

1.The Principal Secretary to Govt.,
State of Tamil Nadu, Municipal
Administrative and Water Supply Dept.,
Fort St. George, Chennai 600 009.

2.The Commissioner,
Chennai Corporation,
Chennai 600 003.

3.The Executive Engineer,
Zone-8, Chennai Corporation,
2nd Cross Street, Pulla Avenue,
Shenoy Nagar, Chennai-30.

4.Dr.T.N.Manohar

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records of the impugned notice issued by the 3rd respondent vide Notice No.Zone-8/TPENFF/5272/2018 dated 09.05.2018 and quash the same as illegal and consequently restrain the respondents from in any way disturbing the peaceful possession of the petitioner's property situated in Plot No.C 35, Shop No.3, 2nd Avenue, Anna Nagar, Chennai-40, till the disposal of the Special Revision Petition dated 25.07.2017.

For Petitioner : Mr.E.Vijay Anand

For Respondents : Mr.R.Udhaya Kumar
Addl.G.P. for R-1
: Mr.K.Sountharajan, Stng. Counsel
for RR 2 and 3

O R D E R

(Order of the Court was made by M.Sathyanarayanan, J.)

By consent, the writ petition is taken up for final disposal. Mr.R.Udhayakumar, learned Additional Government Pleader, accepts notice on behalf of first respondent and Mr.K.Sountharajan, learned counsel, accepts notice on behalf of respondents 2 and 3.

2.The petitioner claims to be in possession and enjoyment of Plot No.C-35, Shop No.3, 2nd Avenue, Anna Nagar, Chennai-40 from the year 1986 onwards. Originally, the petitioner was carrying on hardware business in the shop and now intends to start a sweet stall.

3.Learned counsel appearing for the petitioner would submit that the petitioner, on an earlier occasion, filed W.P.No.19477 of 2017 praying for issuance of writ of mandamus directing the first respondent herein to consider and dispose of his special revision dated 25.07.2017 and the 4th respondent herein and four other persons have intervened by filing W.M.P.No.32584 of 2017 and this Court, taking note of the facts and circumstances, had directed the first respondent to put the petitioner as well as the 4th respondent herein on notice and thereafter, consider and dispose of the special revision on merits and in accordance with law within the stipulated time frame and despite the direction, it is yet to be disposed of and in the interregnum, the third respondent has issued the impugned de-occupation notice, consequently, threatening to demolish the alleged unauthorised construction and therefore, prays for appropriate orders.

4.Mr.R.Udhaya Kumar, learned Additional Government Pleader, would submit that the special revision has already been entertained and it will be given disposal at the earliest.

5.Learned standing counsel appearing for respondents 2 and 3/ Corporation of Chennai, would submit that since the superstructure put up by the petitioner is an unauthorised one, action has been taken strictly in accordance with law.

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

7.It is relevant to extract the details of the deviations pointed out by the respondents in the impugned notice dated 09.05.2018.

S.No.	Description	As per approved plan	Unauthorised/Deviated Construction in (m)
1	Front Set back	6 m	6 m x 7.25 m = 43.5 m
2	Side Set back (West)	3.04 m	3.04 m x 15.24 m = 46.32 m
3	Side Set back (East)	4.50 m	Nil
4	Rear Set back	1.52 m	1.52 m x 7.25m = 11.02 m

8.This Court, while disposing of W.P.No.19477 of 2017 filed by the petitioner, has directed the first respondent herein to consider and dispose of the special revision filed under Section 80-A of the Town and Country Planning Act, 1971 after putting on notice the petitioner as well as the objectors, namely, Tvl.Srikanth R.Shastri, Kesavaraja, K.Sudhakaran, Dhadhaboy and the 4th respondent herein. However, the special revision is yet to be disposed of.

9.This Court, taking into consideration the above facts and circumstances, directs the first respondent to comply with the order dated 08.08.2017 made in W.P.No.19477 of 2017 and dispose of the special revision on merits and in accordance with law, after affording an opportunity to the petitioner as well as to the objectors and the said exercise is to be carried out within a period of three (3) weeks from the date of receipt of a copy of this order. Until such time, the third respondent shall defer further decision in terms of the impugned notice.

10.It is also made clear that in the event of the petitioner's sweet stall business being run, the petitioner shall comply with all the relevant norms and regulations and shall also adhere to the FSSAI standards. The petitioner, till the disposal of the special revision by the first respondent, shall not create any third party rights in respect of land and superstructure in question and shall not further alter the physical features also.

The writ petition stands disposed of accordingly. No costs. Consequently, connected MPs. are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sra

To

1.The Principal Secretary to Govt.,
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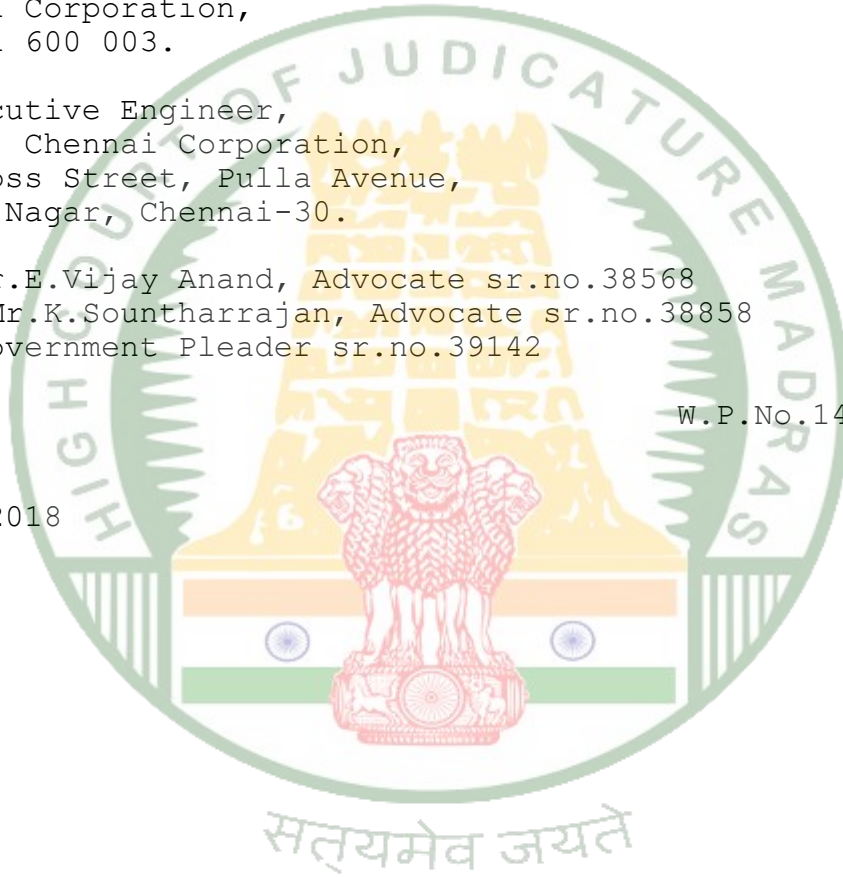
+1cc to Mr.E.Vijay Anand, Advocate sr.no.38568

+1cc to Mr.K.Sountharrajan, Advocate sr.no.38858

+1cc to Government Pleader sr.no.39142

W.P.No.14881 of 2018

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