

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.Nos.25032 and 25337 of 2018 and
WMP Nos.29082 and 29487 of 2018

T.Padmanabhan

...Petitioner in
W.P.No.25032/2018

Faith Multi Specialty Hospital
Rep. by its Partner,
Dr.Simon Hercules
No.33/17, Sannathi Street, Villivakkam,
Chennai - 600 049. ...Petitioner in W.P.No.25337/2018

-vs-

1.The Secretary to Government,
Housing and Urban Development,
Secretariat, Chennai - 600 009.

2.The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai - 600 003.

3.The Zonal Officer,
Zone-8, Greater Chennai Corporation,
Shenoy Nagar, Chennai - 600 030.

4.The Executive Engineer,
Zone-8, Greater Chennai Corporation,
Shenoy Nagar, Chennai - 600 030.

...Respondents in W.P.No.25032/2018

1.The Executive Engineer Enforcement,
Enforcement - Regional Central,
Corporation of Chennai,
2nd Cross Street (East)
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.

2.The Assistant Executive Engineer,
Regional Deputy Commissioner Office/Central,
Enforcement Cell, Corporation of Chennai,
2nd Cross Street (East)
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.

3.The Assistant Executive Engineer,
Zone 8, Regional Central,
Corporation of Chennai,
2nd Cross Street (East)
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.

4.The Zonal Officer,
Zone 8, Regional Central,
Corporation of Chennai,
2nd Cross Street (East)
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.

5.The Commissioner,
Greater Corporation of Chennai,
Chennai - 600 003.

6.H.Lakshmi
7.Padmanaban

... Respondents in W.P.No.25337/2018

Writ Petition No.25032 of 2018 filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the third respondent culminating in his RegionCentral.8.Na.Ka.No.6015/2018 dated 17.09.2018 and quash the same.

Writ Petition No.25337 of 2018 filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records relating to the order/notice dated 17.09.2018 in reference No.ம.அ.8.ந.க.எண்/6015 of 2018 issued by the 4th respondent and quash the same as illegal.

For Petitioners : Mr.V.Raghupathi
in W.P.No.25032 of 2018
Mr.AR.L.Sundaresan
Senior Counsel for
Mr.R.Manickavel
in W.P.No.25337 of 2018

For Respondents : Mr.R.Udayaakumar
Addl.Govt.Pleader for R1
in W.P.No.25032/2018

Mr.V.C.Selvasekaran
for R2 to R4 in
W.P.No.25032/2018 and
for R1 to R5 in
W.P.No.25337/2018

C O M M O N O R D E R
[Order of the Court was delivered by
K.K.SASIDHARAN,J.]

These two writ petitions are directed against the lock and seal notice issued by the Zonal Officer, Regional Central Zone, Corporation of Chennai, pursuant to the enforcement action taken against the building in question treating it as an unauthorised construction.

2. The writ petition in W.P.No.25032 of 2018 is at the instance of the builder and the writ petition in W.P.No.25337 of 2018 is at the instance of the tenant, who is in occupation of a portion of the building housing the hospital.

3. We have heard the learned counsel for the petitioner in W.P.No.25032 of 2018 and the learned Senior Counsel for the petitioner in W.P.No.25337 of 2018. We have also heard the learned Standing Counsel for the Chennai Corporation.

4. The petitioner in W.P.No.25032 of 2018 is stated to be the present owner of the building bearing Door No.35/1733/16, Sannidhi Street, Villivakkam, Chennai. There are two building, one bearing Door No.35/16 and the other bearing Door No.35/17. The building bearing Door No.35/16 is stated to be in the possession of the land lord. The petitioner in W.P.No.25337 of 2018 is stated to be the tenant in respect of the premises bearing Door No.35/17.

5. The tenant, who is the petitioner in W.P.No.25337 of 2018 alleges that there is an attempt at the instance of the landlord to evict the hospital and to take possession without due process of law. The allegation is disputed by the landlord, against whom action was taken by the Chennai Corporation for demolish. There are proceedings between the landlord and the tenant relating to the building in question. We are not concerned about the same.

6. The notice dated 17 September 2018 is amenable to the appellate jurisdiction under the provisions of the Tamil Nadu Town and Country Planning Act, 1971. We are informed that the petitioner in W.P.No.25337 of 2018 has already filed an appeal before the Government. The Appellate Authority is having jurisdiction to pass interim orders during the currency of the appeal. We are therefore of the view that the parties must approach the Appellate Authority.

7. We permit the petitioner in both the writ petitions to initiate appropriate proceedings before the Appellate Authority constituted under the provisions of the Tamil Nadu Town and Country Planning Act. The parties are also permitted to file interim application before the authority to preserve status quo during the currency of the appeal. In case, any

such appeals are filed within a period of 15 days' from the date of receipt of a copy of this order, the same shall be entertained by the Appellate Authority and appropriate orders should be passed on merits and as per law. It is open to the Appellate Authority to pass orders to preserve status quo. We make it clear that in case, appeals are not filed within the period indicated above, it is open to the statutory authority to proceed further in accordance with law.

8. Status quo as on today shall be maintained till orders are passed by the Appellate Authority either in the appeal or in the application for interim relief, whichever is earlier.

9. The writ petitions are disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Housing and Urban Development,
Secretariat, Chennai - 600 009.
- 2.The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai - 600 003.
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8.The Zonal Officer,
Zone 8, Regional Central,
Corporation of Chennai, 2nd Cross Street (East)
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.

9.The Commissioner Greater Corporation
at Chennai, Chennai 600 003

+1cc to Mr.R.Manickavel, Advocate SR.NO.68055

JP(CO)
sm:26.10.2018

W.P.Nos.25032 and 25337 of 2018

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