

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2018

CORAM

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

WP.No.15875 of 2018
and WMP.Nos.18881 & 18882 of 2018

P.Jeyakumar

...Petitioner

Vs.

1.The Principal Secretary/Member Secretary,
Chennai Metropolitan Development Authority,
Thala Muthu Natarajan Buildings,
No.1, Gandhi Irwin Road,
Egmore, Chennai – 600 008.

2.N.P.Anand

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records of the respondent No-1 in his proceedings letter No.EC/N-1/2184/2018 dated 28.05.2018 and quash the same.

For Petitioner : Mr.S.Senthil Nathan
For Respondents : Mrs.Veena Suresh, Standing Counsel
for R1

ORDER

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

By consent, the writ petition is taken up final disposal.

2. Ms.Veena Suresh, learned Standing Counsel accepts notice on behalf of the 1st respondent.

3. The petitioner claims to be the owner of the property bearing Flat No.2, Ground Floor, Swarnavarsh Apartment, No.5, New No.55, Block F Second Main Road, Anna Nagar East, Chennai-600 102, through registered Sale Deed bearing Doc.No.3995 of 2005 dated 27.10.2005 registered on the file of the Sub Registrar, Annanagar. The petitioner would further state that originally the premises was under his occupation and for the purpose of using it for residential cum commercial, he let out the same in favour of one Surendran Vignesh Prabu, who is an Architectural Consultant and he has used the office between 10.00 a.m and 05.00 p.m. It is further stated by the petitioner that the Tenant has used 250 sq.ft as a place for preparation of his plan / sketch. However, to his shock and surprise, he has been issued with lock and seal and demolition notice dated 28.05.2018 by the 1st respondent under Section 56 and 57 read with

Section 85 of the Tamil Nadu Town and Country Planning Act, 1971, calling upon the petitioner to restore the original condition of the building as per the approved plan within a stipulated time, failing to do so, to take appropriate action to demolish the superstructure. The petitioner has submitted a detailed representation dated 16.06.2018 and would submit that the 2nd respondent who is said to be the complainant, is also residing in the very same apartment and being engaged in the Architectural Consultancy and on account of professional jealousy, he made a false complaint and hence prays for appropriate orders.

3. The petitioner apprehending deoccupation and demolition, came forward to file this writ petition. The learned counsel appearing for the petitioner has invited the attention of this Court to the typed set of documents and would submit that even for the sake of argument, that there was a construction which is minimal in nature and it is also within the condonable limit, without eliciting response from the petitioner, action is taken without properly following the due process of law and hence prays for interference.

4. *Per contra*, Mrs.Veena Suresh, learned Standing Counsel appearing for the 1st respondent would submit that since the petitioner is

having effective alternate remedy under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, the present writ petition is not maintainable and the points urged by the learned counsel for the petitioner revolves on adjudication of disputed facts and prays for dismissal of this writ petition.

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

6. This Court taking into consideration the above facts and circumstances and without going into the merits of the contention put forth by the petitioner permitting the petitioner to file a special revision / appeal under Section 80 A of the Town and Country Planning Act along with petition for stay, by enclosing relevant and authenticated documents, within a period of three weeks from the date of receipt of copy of this order, before the Private Secretary to Government, Housing and Urban Development Department, Secretariat, Chennai-600 009 and the said official or the delegated authority, upon receipt of the same, shall entertain the same, if the papers are otherwise in order, without putting the issue of limitation. The revisional / appellate authority, shall take up the petition for stay at the first instance, pending disposal of the special revision / appeal

and give a disposal in accordance with law within a period of four weeks from the date of entertainment of the same and till such time, the 1st respondent shall defer further decision in terms of the impugned notice dated 28.05.2018. The revisional / appellate authority / delegated authority is also at option to take up the main petition itself and give a disposal in accordance with law within a period of twelve weeks from the date of entertainment of the same and communicate the decision taken to the petitioner.

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

[M.S.N.J] [G.K.I.J]

28.06.2018

Index : Yes/No
 Internet: Yes/No
 Speaking Order/Non Speaking Order

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To
 The Principal Secretary/Member Secretary,
 Chennai Metropolitan Development Authority,
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 No.1, Gandhi Irwin Road,
 Egmore, Chennai – 600 008.

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M.SATHYANARAYANAN.,J
AND
G.K.ILANTHIRAIYAN.,J

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