

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.09.2019

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.27423 of 2019
in
W.M.P.No.26884 of 2019

1.P.Thiruthuvaraj

2.T.Umavathi

.. Petitioners

/versus/

1.The Secretary to Government,
Local Administration Department,
Govt. of Tamil Nadu,
Fort. St.George,
Chennai - 600 009.

2.The Commissioner,
Corporation of Greater Chennai,
Ripon Building,
Chennai - 600 002.

3.The Zonal Officer,
Zone-XIII,
Corporation of Greater Chennai,
Dr.MuthulakshmiSalai, Adyar,
Chennai - 600 020.

.. Respondents

Writ Petition filed under Article 226 of Constitution of India praying to issue a Writ of Certiorari, to call for the records of the second respondent, impugned notice issued vide its proceedings Pa.Tu.Na.Ka.No.1179/2019 dated 19.07.2019 and quash the same as illegal, ultra vires and wholly without jurisdiction.

For Petitioners :Mr.R.Thiagarajan

For Respondents :Mr.K.Ravikumar
Additional Government Pleader
for R1 to R3

O R D E R

By consent, the writ petition is taken up for final disposal, at the admission stage itself.

2. Heard Mr.R.Thiagarajan, learned counsel appearing for the petitioners and Mr.K.Ravikumar, learned Additional Government Pleader, who takes notice for respondents 1 to 3.

3. The petitioners herein challenge the show cause notice issued by the Commissioner, Corporation of Greater Chennai, dated 19.07.2019 calling upon the petitioners herein to participate in the enquiry proceedings, which has been initiated pursuant to the direction of this Court in W.P.No.16528 of 2018.

4. It appears that there is a title dispute between the petitioners and one Roshi and others. Based on the earlier document, planning permission has been granted to the petitioners vide Ref.No.PPA/7310/1998 and BA/2156/1999. However, the same has been questioned by the said Roshi (not a party in this writ petition) in W.P.No.16528 of 2018. In the said writ petition, this Court on 24.07.2018 has passed the following order:

"In the light of the above submissions of the learned counsels and also considering the nature of prayer sought for in the writ petition, this Court, without going into the merits of the case, directs the first respondent to consider the representation of the petitioner dated 13.03.2019 and pass orders on merits and in accordance with law, after providing an opportunity of hearing to all necessary parties, within a period of twelve weeks from the date of receipt of a copy of this order."

5. The contention of the petitioners is that pursuant to the order passed by this Court, they have participated in the enquiry before the first respondent. They have submitted all the documents. So far no order has been passed by the first respondent. But all of sudden, the impugned notice has been served on them by the second respondent/the Commissioner, Corporation of Greater Chennai.

6.The apprehension of the petitioners is that the petitioners as well as the said Roshi have approached the Civil Court regarding the title and the matter is pending before the City Civil Court, Chennai. While so, any decision by the second respondent will prejudice them. The second respondent cannot judge the issue pending before the competent Civil Court. If he does it will highly prejudice the petitioners.

7. This Court do not find any reason for the such apprehension. As far as the show cause notice is concerned, it is only to participate in the enquiry, which has been initiated pursuant to the direction of this Court. The petitioners cannot stay away from the enquiry proceedings on presumed apprehension. The said enquiry is regarding the building permission granted in favour of the petitioners. The second respondent at the most can pass order on the building permission can not decide upon the title. The issue regarding title has already been seized by the Civil Court and the parties can work out the remedy before the Civil Court. The pendency of the suit shall no way stand in the way of the second respondent to decide the illegality of the earlier order passed granting building approval to the petitioner. More so, the enquiry itself is pursuant to the direction of the High Court. Hence, this Court finds no merit in the writ petition.

8. In the result, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

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To:

1.The Secretary to Government,
Local Administration Department,
Govt. of Tamil Nadu,
Fort. St.George,
Chennai - 600 009.

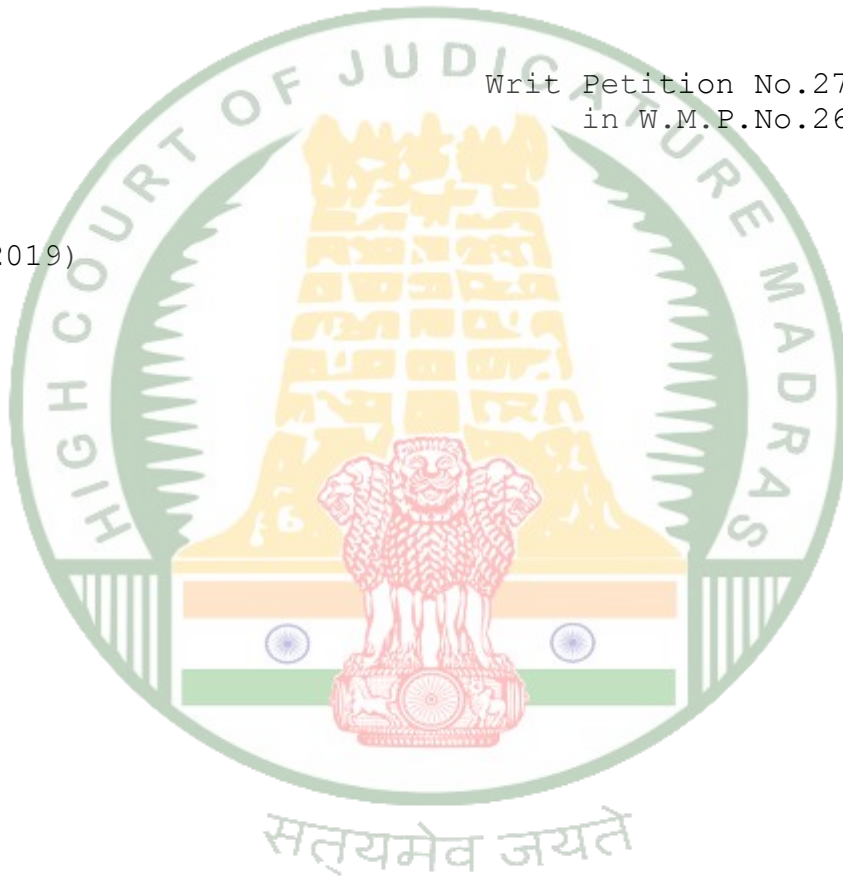
2.The Commissioner,
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3.The Zonal Officer,
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Dr.MuthulakshmiSalai, Adyar,
Chennai - 600 020

+2 Ccs to Mr.R.Thiagarajan, Advocate sr 79582.
+1 CC to Govt. Pleader sr 79678

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SP(26/09/2019)



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