

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.9.2019

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI, THE ACTING CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.28577 of 2019
and
W.M.P.No.28317 of 2019

K.Ramesh @ Ramesh Babu

Petitioner

Versus

1. The Secretary
Housing & Urban Development
Department,
Government of Tamil Nadu,
Fort St. George, Chennai 600 009.

2. The Commissioner,
Kancheepuram Municipal Corporation,
Kancheepuram 631 502.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari to call for the records in Na.Ka.No.11172/2017/F1 dated 19.9.2019 issued by the 2nd respondent and quash the same.

For Petitioner : Mr.K.M.Balaji

For R1 : Mr.S.N.Parthasarathi,
Government Advocate

ORDER

(Order of the court was made by Dr.VINEET KOTHARI, ACJ.)

The Petitioner K.Ramesh @ Ramesh Babu, son of Kothanda Raman, residing at New No.21, Old No.9, Thiruvalluvar Street, Kancheepuram 631 501 has approached this court by way of present Writ Petition with the grievance that despite his objections for the notice issued by the Kancheepuram Municipal Corporation on 2.4.2019 under Section 56 and 57 of the Town and Country Planning Act, 1971, without deciding the said objections in

accordance with law, the Respondent, Kancheepuram Greater Municipality has proceeded further to de-occupy and evict the petitioner by way of notice dated 16.4.2019.

2. The learned counsel for the petitioner, Mr.K.M.Balaji submitted that the Petitioner filed a Revision Application under Section 80A of the Act to the concerned Secretary to the Government, which has not so far been decided, however, the Respondent-Commissioner of Greater Municipality, Kancheepuram has sent a letter dated 28.5.2019 to the Petitioner contending that for the notice dated 2.4.2019, the petitioner had failed to submit his explanation and therefore, it had resulted in the proceedings under Section 56(3) and Section 2A of the Town and Country Planning Act. In these circumstances, the learned counsel for the Petitioner would submit that the Petitioner was constrained to approach this court.

3. Having heard the learned counsel for the Petitioner, we are of the opinion that it is on account of the failure on the part of the Authority concerned, viz., Commissioner, Kancheepuram Greater Municipality to decide the Objections/explanation filed by the Petitioner, it has resulted in filing of Revision Application under Section 80A of the Act before the concerned Secretary to the Government, which also remained unattended by the Authority concerned and in these circumstances, apprehending coercive action, the Petitioner has approached this Court by way of the present Writ Petition.

4. In the circumstances, we direct the Authorities concerned to decide the Objections/explanation filed by the Petitioner after affording an opportunity of hearing to the petitioner. The petitioner is directed to appear before the said Authority viz., the Commissioner of Kancheepuram Greater Municipality in the first instance on 15.10.2019 at 11.00 am. The said Authority will decide the case of the Petitioner in accordance with law, within a period of two weeks thereafter. If the Petitioner is still aggrieved by the order of the Commissioner, he can avail his remedy under Section 80/80A of the said Act before the concerned Secretary of the State Government.

5. In the meanwhile, the Respondents are not expected to take any coercive action against the Petitioner till the Commissioner, Kancheepuram Greater Municipality decides the Objections/explanation of the Petitioner in accordance with law within the time frame of two weeks after the appearance of the petitioner on 15.10.2019 as directed above. The position will abide by the order to be passed by the said Commissioner and further statutory remedy to be availed by the Petitioner.

6. With this observation, the Writ Petition is disposed of.
No costs. No costs. The connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The Secretary
Housing & Urban Development
Department,
Government of Tamil Nadu,
Fort St. George, Chennai 600 009.

2. The Commissioner,
Kancheepuram Municipal Corporation,
Kancheepuram 631 502.

+1cc to Government Pleader sr.84493

+1cc to Mr.K.M.Balaji, Advocate sr.83713

W.P.No.28577 of 2019

nr 10/10/2019

सत्यमेव जयते

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