

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.10.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

WP.NO.14276 OF 2020 & WMP.NO.17748 OF 2020

1.J.Raghupathy
2.J.Puhpaharan

.. Petitioners

Versus

1. The Secretary to Government
Housing and Urban Development
Department, Fort St George
Secretariat, Chennai-600 009.
2. Greater Chennai Corporation
rep.by the Commissioner
Ripon Buidlings, Chennai 600 003.
3. The Executive Engineer
Greater Chennai Corporation
Zone-VII, CTH Road,
Ambattur, Chennai 600 053.

... Respondents

Prayer:-

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents from taking any coercive action of locking and sealing of the building No.65/16 [75] MTH Road, Varadharajapuram, Ambattur, Chennai 600 053 pending the disposal of the appeal dated 01.03.2019 under Section 80[A] of the Tamil Nadu Town and Country Planning Act, 1971, before the 3rd respondent.

For Petitioners: Mr.S.Santhan

For R1 : Mr.R.Vijayakumar, AGP

For RR2&3 : Mr.K.Raja Srinivas
Standing counsel

ORDER

- (1) By consent, the writ petition is taken up for final disposal and is disposed of by this order.
- (2) Mr. R. Vijayakumar, learned Additional Government Pleader accepts notice on behalf of the 1st respondent and Mr. K. Raja Srinivas, learned Standing counsel accepts notice on behalf of respondents 2 and 3.
- (3) The petitioners claim to be the owners of the property situate at Door No. 18, Varadharajapuram, Ambattur, Chennai-600 053, comprised in SF.No. 200/1C1 admeasuring to an extent of 2352 sq.ft., which was purchased vide a registered Sale Deed bearing Document No. 6430 of 2007 dated 28.05.2007 registered on the file of the office of the Sub Registrar, Ambattur. The petitioners claim that for the purpose of carrying out their commercial entity, they put up a shed and a big equipment installed adjacent to their building, fallen upon the premises due to the 'Vardha Cyclone' and they have been paid with a meager compensation. The petitioners would further state that subsequently, they applied for Planning Approval from the 1st respondent and it was also granted vide Planning Permission No. PPA/WDS No. 07/04313/2017 and the Building Plan approval vide Ba/WDS No. 07/04602/2017 dated 18.08.2017 and as per the Approval, the construction in stilt + 2 Floors with open terrace was approved to be put up and according to the petitioners, they are entitled to put up construction for the built up area of 966 sq.ft., along with stilt floor area for 1 car and 8 two wheeler parking. The petitioners were issued with the Notice dated 27.11.2018 under Sections 56[1] and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971, by the Assistant Engineer, Division 85. They made a challenge to the said Notice by filing an Appeal / Special Revision under Section 80[A] of the said Act before the 1st respondent vide Appeal Memorandum dated 01.03.2019 and pendency of the Appeal, they also sought for stay of the further proceedings. The learned counsel for the petitioners would submit that though the 1st respondent has acknowledged the receipt of the said Appeal Memorandum on 01.04.2019, he is yet to take up the petition for stay and in the interregnum, there is a likelihood of the 3rd respondent proceeding further and demolish the alleged offending construction and therefore, prays for appropriate protection till the disposal of the appeal by the 1st respondent.
- (4) The Court heard the submissions of Mr. R. Vijayakumar, learned Additional Government Pleader appearing on behalf of the 1st respondent and Mr. K. Raja Srinivas, learned Standing counsel appearing on behalf of respondents 2 and 3 and also perused the

materials placed before it.

(5) This Court, taking into consideration, the above facts and circumstances and without going into the merits of the claim projected by the petitioners, either in their appeal / special revision or in this writ petition, directs the 1st respondent to entertain the statutory appeal dated 01.03.2019 filed by the petitioners under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, if the papers are otherwise in order and shall take up the prayer for interim relief at the first instance and give a disposal within a period of three weeks from the date of receipt of a copy of this order, after hearing the petitioner in WP.No.30362 of 2018, viz., Mr.Lokabiraman and communicate the decision taken, to the petitioners as well as respondents 2 and 3. The 1st respondent is also at liberty to accord priority and dispose of the main appeal itself. The 3rd respondent, till the disposal of the petition for stay by the 1st respondent, shall defer further action in terms of the impugned Notices dated 27.11.2018 and 10.12.2018 respectively. It is also made clear that the petitioners, till the disposal of the petition for stay by the 1st respondent, as directed by this Court, shall not alter the physical features and shall not create any third party rights in respect of the superstructure in question and if any infraction is brought to the knowledge of this Court, the cost and consequences would follow.

(6) The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

AP

To

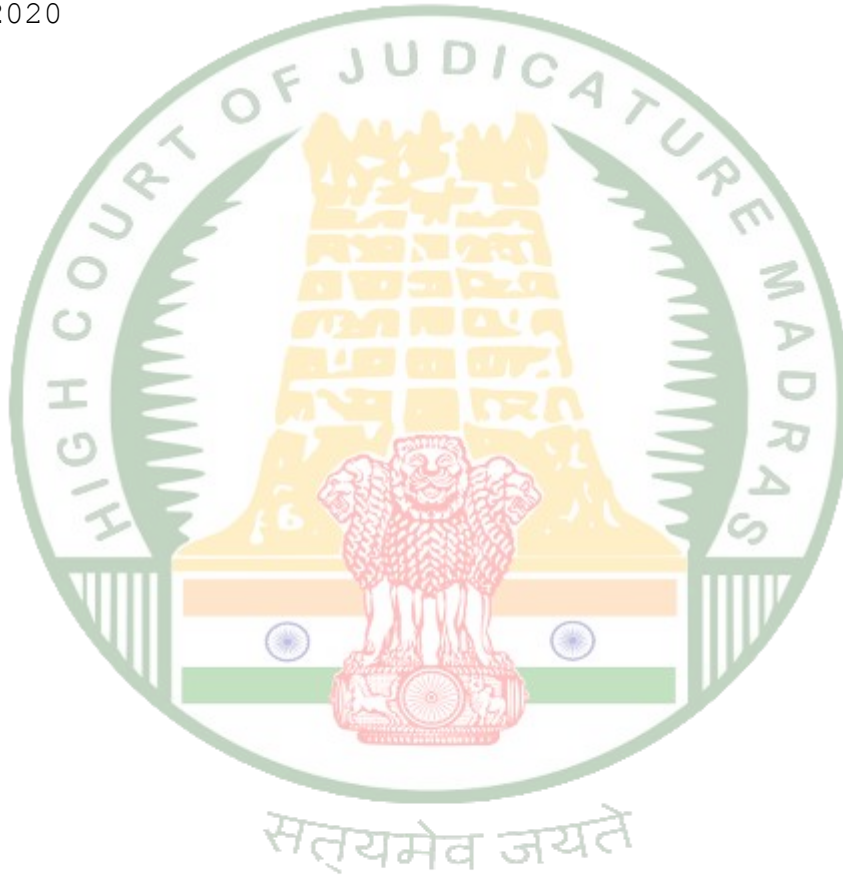
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+1cc to Mr.K.Raja Srinivas, Advocate, S.R.No.33608
+1cc to Mr.S.Santhan, Advocate, S.R.No.33691
+1cc to the Government Pleader, S.R.No.33700

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AJS (CO)
CS/10/11/2020



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