

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.10.2020

CORAM

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

WP.No.14842/2020 & WMP.No.18443/2020

Munusamy

..Petitioner

Versus

1. The Secretary to Government
Hosing and Urban Development
Department, Fort St George
Chennai 600 009.
2. The Commissioner
Corporation of Chennai
Chennai.
3. The Assistant Engineer
Division No.043,
Corporation of Chennai
Tondiarpet, Chennai.
4. The Assistant Executive Engineer
Unit-10, Division No.043,
Corporation of Chennai
Tondiarpet, Chennai.
5. The Executive Engineer
Zone - 04, Corporation of Chennai
Tondiarpet, Chennai.
6. Mr.Sateesh Kumar

..Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus forbearing the respondents 2 to 5 or anybody on their behalf from initiating any coercive action of demolition with regard to the property situated at No.55[20], Vinayagapuram Main Road, Vinayagapuram, Chennai 600 013, measuring around 400 sqft., pending determination of the appeal filed by the petitioner under Section 80-A [special provisions of the Government] of the Town and Country Planning Act, 1971 dated 19.02.2020 with the 1st respondent filed against the Lock and Seal Notice and demolition notice in Letter No.04/00041/2019 date 12.12.2019 issued by the 3rd to 5th respondents.

For Petitioner : Mr.S.P.Meenakshi Sundaram
For R1 : Mr.P.S.Sivashanmugasundaram
Special Government Pleader
For RR 2 to 5 : 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.P.S.Sivashanmugasundaram, learned Special 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 to 5.
- (3) A perusal of the materials would prima facie disclose that the petitioner had unauthorizedly put up some construction without any Planning Permission and challenging the Locking and Sealing and Demolition Notice dated 12.12.2019 issued under Section 57 read with 85 of the Tamil Nadu Town and Country Planning Act, 1971, by the respondents 3 to 5, filed an appeal/statutory revision under Section 80A of the said Act before the 1st respondent and pending disposal of the same, also prayed for interim orders.
- (4) The learned counsel for the petitioner would submit that the acknowledgment of the appeal petition was also given on 19.02.2020 and even now, neither the petition for stay nor the main appeal/special revision has been taken up and taking advantage of the same, respondents 2 to 4 are proceeding further to demolish the alleged offending construction and prays for appropriate orders.
- (5) This Court heard the submissions of Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader appearing for the 1st respondent and Mr.K.Raja Srinivas, learned Standing counsel appearing for respondents 2 to 5 and also perused the materials placed before it.
- (6) Though the petitioner had prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, either in his appeal / special revision filed before the 1st respondent or in this writ petition, directs the 1st respondent or the delegated authority to take up the appeal/special revision in Letter No.04/0041/2019 dated 12.12.2019, if the papers are otherwise in order and take up the prayer for interim stay initially and give a disposal in accordance with law within a period of three weeks from the date of receipt of a copy of this order and till such time, respondents 3 to 5 shall defer further decision as to the demolition of the alleged offending construction. It is also open to the 1st respondent / delegated authority to accord

priority and dispose of the main appeal/special revision itself on merits and in accordance with law. The writ petitioner, till the disposal of the appeal/special revision by the 1st respondent, shall not alter the physical features of the superstructure and shall not create any third party rights in respect of the land and superstructure in question.
(7) The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

To

1.The Secretary to Government
Hosing and Urban Development
Department, Fort St George
Chennai 600 009.

2.The Commissioner
Corporation of Chennai
Chennai.

3.The Assistant Engineer
Division No.043,
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4.The Assistant Executive Engineer
Unit-10, Division No.043,
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5.The Executive Engineer
Zone - 04
Corporation of Chennai
Tondiarpet, Chennai.

+1cc to Mr.K.Rajasrinivas, Advocate, sr no.34542
+1cc to Mr.Meenakshisundaram, Advocate, sr no.34577
+1cc to Government Pleader, sr no.34760

WP.No.14842/2020

SVI (CO)
RMP (01/12/2020)