

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.11.2020

CORAM

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

WP.No.16283 of 2020
and W.M.P.No.20360 of 2020

Mr.Senthil rep by its Power Agent
Mrs.Manonmani ... Petitioner

Versus

1. The commissioner of Corporation
Central Zone, Coimbatore.
2. The Assistant Commissioner of Corporation,
Central Zone, Coimbatore.
3. The Town Planning Officer,
Coimbatore Corporation, Coimbatore.
4. The Assistant Town Planning Officer,
Coimbatore Corporation, Coimbatore. ... Respondents

Prayer:- Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus to call for the records in proceedings No.K.V.No.0443/2004/H2, K.V.No.0310/2004/H2 dated 14.08.2019 and 28.09.2020 issued under Section 296(1) and (2), 282(1) and (2), 26(1) and (2) of the Coimbatore Corporation Act 1981 on the file of the respondents 1 and 2 and quash the same and direct the respondents 1 and 2 authorities directing the respondents particularly 2nd respondent to open the lock and seal of the M/s.Xiomi Showroom at 100 feet road, Tatabad Dr.Radhakrishnan Road, Coimbatore, by considering the petitioner's representation dated 29.09.2020.

For Petitioner : Mr.K.Parameswari

For Respondents: Mr.Saravanan

ORDER

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

A perusal of the materials placed before this Court would disclose that the property in G.S.No.193, T.S.Ward No.11, Coimbatore Town Tatabad, Dr.Rajendra prasad Road, T.S.No.651, Site No.471 (Old Door No.91), originally belongs to Mr.S.Krishnamoorthy and the property was developed jointly with M/s.Sree Vatsa Real Estate Pvt.Ltd, for the purpose of putting up a commercial cum residential complex and the construction was put up in the year 2004 and the building consists of three floors as well as ground floor.

2. According to the petitioner, he had purchased a portion of ground floor and started running a mobile phone shop and since the Corporation of Chennai has issued a notice for demolition of the shop, the shop owner has also filed a Suit in O.S.No.1204/2019, on the Court of III Additional District Munsif at Coimbatore and the same is pending without any interim orders.

3. The learned counsel appearing for the petitioner would submit that all of a sudden, the Commissioner, Corporation of Chennai, has issued the impugned notice dated 14.08.2019, followed by yet another notice dated 28.09.2020, alleging unauthorised conversion as well as unauthorised construction.

4. It is the submission of the learned counsel appearing for the petitioner that with regard to the alleged unauthorised construction, an application has been submitted to the Chennai Metropolitan Development Authority on 16.09.2019, under Section 113-C of the Tamil Nadu Town and Country Planning Act, 1971, Building Regularisation Scheme-2017 and the same is pending consideration and in the interregnum, the entire premises have been closed, on account of the outbreak of COVID-19 pandemic virus and prays for appropriate orders for quashment of the notices, with further direction to remove the lock and seal and depending upon the result of the regularisation application, further proceedings can be taken place.

5. Mr.Saravanan, learned standing counsel accepts notice on behalf of the respondents 1 to 4 and has invited the attention of this Court to the impugned notice dated 28.09.2020 and would submit that major deviations have been done in respect of the approved plan and since action has been taken strictly in accordance with law, the petitioner cannot make any grievance and further pointed out that mere pendency of the regularisation

application under Section 113-C of the Tamil Nadu Town and Country Planning Act, 1971, would not forbear the respondents from proceeding further and prays for dismissal of this Writ Petition.

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

7. The petitioner before purchasing the property, ought to have availed the planning permission and it prima facie appears that he has failed to do any due diligence. Be that as it may, a perusal of the impugned notice dated 28.09.2020, would disclose that major deviations have been done in utter violation and disregard to the sanctioned plan and a portion of the building purchased by the petitioner, appears to be reserved still for car parking and it has been illegally used as mobile phone shop and exploited for commercial purpose.

8. In the considered opinion of this Court, in respect of the persons who violates the law, the Court would not come to their aid. If the petitioner is so advised, he is at liberty to work out his remedy in accordance with law, depending upon the result of the application dated 16.09.2020, filed under Section 113-C of the Town and Country Planning Act, 1971 and this Court finds no merits in this Writ Petition and the same deserves dismissal.

9. Accordingly, the Writ Petition stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

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To

1.The commissioner of Corporation
Central Zone, Coimbatore.

2.The Assistant Commissioner of Corporation,
Central Zone, Coimbatore.

3.The Town Planning Officer,
Coimbatore Corporation, Coimbatore.

4.The Assistant Town Planning Officer,
Coimbatore Corporation, Coimbatore.

+1 cc to M/s.s.Saravana, Advocate Sr.No. 37536

W.P.No.16283 of 2020

NRL (CO)
RMP (15/12/2020)



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