

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.12.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN  
AND  
THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

WP.NO.18410/2020 & WMP.NO.22813/2020

R.Iyappan

.. Petitioner

Versus

1. The Secretary to Government  
Housing & Urban Development Department  
Secretariat, Fort St George  
Chennai 600 009.
2. The Commissioner  
Greater Chennai Corporation  
Ripon Building, Chennai 600 003.
3. The Assistant Engineer  
Corporation of Chennai  
Zone-15, Division-199  
No.120, Rajiv Gandhi Salai  
Sholinganallur, Chennai 600 119.
4. The Executive Engineer  
Zone-15, Greater Chennai Corporation  
No.120, Rajiv Gandhi Salai  
Sholinganallur, Chennai 600 119.
5. The Assistant Executive Engineer  
Greater Chennai Corporation  
Unit - 44, Division-199, Zone-15  
Sholinganallur, Chennai 600 119.

.. Respondents

Prayer:-

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the 1<sup>st</sup> respondent to dispose of the petitioner's appeal/revision dated 28.10.2020 pending on the file of the 1<sup>st</sup> respondent within a stipulated time frame as prescribed by this Court.

For Petitioner : Mr.R.Jayaprakash

For R1 : Mr.S.Kamalesh Kannan  
Government Advocate

For RR2 to 5 : Mr.M.Ganesan  
Standing counsel

ORDER

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

(1)By consent, the writ petition is taken up for final disposal and is disposed of by this order.

(2)Mr.S.Kamalesh Kannan, learned Government Advocate accepts notice on behalf of the 1<sup>st</sup> respondent and Mr.M.Ganesan, learned Standing counsel accepts notice on behalf of respondents 2 to 5.

(3)It is alleged that the petitioner has put up an unauthorised construction of residential/commercial building at Plot.No.158, VGP Layout, 2<sup>nd</sup> Main Road, Uthandi, Chennai-199 and therefore, respondents 3 and 4 had issued the Locking, Sealing and Demolition Notice dated 04.09.2020. It is relevant to extract the deviations pointed out in the said Notice:-

| S.No | Description            | As per approved Plan | As on site | Deviation |
|------|------------------------|----------------------|------------|-----------|
| 1    | Front Setback          | 5.42                 | 0.00       | 5.42      |
| 2    | Rear Setback           | 2.00                 | 0.86       | 1.14      |
| 3    | Side Setback [south]   | 2.00                 | 0.60       | 1.40      |
| 4    | Side Setback [North]   | 2.00                 | 0.80       | 1.20      |
| 5    | Total area of building | 185.18               | 561.27     | 376.09    |
| 6    | Height                 | 8.50                 | 9.00       | 0.50      |
| 7    | Area at Ground Floor   | 27.05                | 187.09     | 160.04    |
| 8    | Area at First Floor    | 84.60                | 187.09     | 102.40    |
| 9    | Area at Second Floor   | 73.53                | 187.09     | 113.56    |

| S.No | Description       | As per approved Plan | As on site | Deviation |
|------|-------------------|----------------------|------------|-----------|
| 10   | Floor Space Index | 0.71                 | 2.52       | 1.81      |
| 11   | Usage             | 37.15                | 84.89      | 84.89     |
| 12   | No of Floor       | 2                    | 3          | 1         |

(4)The petitioner, challenging the same, filed appeal/special revision under section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 [in short 'TCP Act'] along with a petition for stay u/s.80[A][3] on 28.10.2020.

(5)The learned counsel for the petitioner would submit that there is a likelihood of locking, sealing and demolition of the alleged offending construction and the petitioner filed an appeal/special revision dated 28.10.2020 before the 1<sup>st</sup> respondent and this Court may issue a positive direction, directing the 1<sup>st</sup> respondent to dispose of the petition for stay at the first instance and thereafter, the main appeal/special revision, at an early date.

(6)Mr.M.Ganesan, learned Standing counsel appearing for respondents 2 to 5 would submit that the petitioner, in brazen violation of the approved plan had put up an unauthorised construction and he is guilty of all violations and as such, action has been taken rightly in accordance with law and hence, prays for dismissal of this writ petition.

(7)Mr.S.Kamalesh Kannan, learned Government Advocate appearing for the 1<sup>st</sup> respondent would submit that there are lot of special revisions/appeals pending and since the appeal/special revision is of the recent origin, it may be taken up seriatim-wise and if the papers are otherwise in order.

(8)This Court has considered the rival submissions and also perused the materials placed before it.

(9)This Court, taking into consideration, the above facts and circumstances and without going into the merits of the claim projected by the petitioner either in his appeal/special revision or in this writ petition, directs the 1<sup>st</sup> respondent to entertain the appeal/special revision filed by the petitioner dated 28.10.2020 if the papers are otherwise in order and take up the petition for stay at the first instance 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/uploading of the order in the website. It is also open to the 1<sup>st</sup> respondent to accord priority and give a disposal to

the main appeal/revision itself.

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

Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Secretary to Government  
Housing & Urban Development Department  
Secretariat, Fort St George  
Chennai 600 009.
2. The Commissioner  
Greater Chennai Corporation  
Ripon Building, Chennai 600 003.
3. The Assistant Engineer  
Corporation of Chennai  
Zone-15, Division-199  
No.120, Rajiv Gandhi Salai  
Sholinganallur, Chennai 600 119.
4. The Executive Engineer  
Zone-15, Greater Chennai Corporation  
No.120, Rajiv Gandhi Salai  
Sholinganallur, Chennai 600 119.
5. The Assistant Executive Engineer  
Greater Chennai Corporation Unit - 44,  
Division-199, Zone-15  
Sholinganallur, Chennai 600 119.

+1cc to Mr.M.Ganesan, Advocate, S.R.No.40586

+1cc to Mr.R.Jayaprakash, Advocate, S.R.No.40665

WP.No.18410 of 2020

SSD(CO)  
CS/18/01/2021