

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

WP.Nos.18256 & 18274 of 2020
and W.M.P.Nos.22639 & 22653 of 2020

Sundeep Hariram ... Petitioner in W.P.No.18256/2020
T.Saravanan ... Petitioner in W.P.No.18274/2020

Versus

1.The Executive Engineer-I
Greater Chennai Corporation
Zone 13, Adyar, Chennai 600 020.

2.The Assistant Executive Engineer,
Unit-38, Greater Chennai Corporation
Zone-13, Adyar, Chennai 600 020.

.. Respondents in W.P.No.18256/2020

1.The Assistant Executive Engineer,
Unit-38, Greater Chennai Corporation,
Zone-13, Adyar, Chennai 600 020.

2.The Assistant Engineer,
Division-176, Greater Chennai Corporation,
Zone-13, Adyar, Chennai 600 020.

...Respondents in in W.P.No.18274/2020

Prayer in W.P.No.18256/2020:- Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus forbearing the respondents from initiating further action on the locking and sealing notice dated 29.9.2020 in Notice No.Div 176/034 /2020 issued under section 56(1) and 57 read with section 85 of the Town and country planning Act 1971 (as amended by Act 61 of 2008) on the file of the respondents till the disposal of the Appeal dated 15.10.2020 filed before the Secretary to Government of TamilNadu, Housing and Urban Development department fort St.George chennai-600 009 under section 80-A of the TamilNadu town and country planning Act, 1971.

Prayer in W.P.No.18274/2020:- Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus forbearing the respondents from initiating further action on the locking and sealing notice dated 29.9.2020 in Notice No.Div 176/035 /2020 issued under section 56(1) and 57 read with section 85 of the Town and country planning Act 1971 (as amended by Act 61 of 2008) on the file of the respondents till the disposal of the Appeal dated 28.10.2020 filed before the Secretary to Government of TamilNadu, Housing and Urban Development department, Fort St.George, Chennai-600 009 under section 80-A of the TamilNadu town and country planning Act, 1971.

For Petitioner in W.P.No.18256/2020: Mr.S.Rajasekar
For Petitioner in W.P.No.18274/2020: MS.Srividhya Aravindan
For R1 and R2 in both writ petitions: Mr.K.Rajasrinivas
Standing Counsel

COMMON ORDER

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

By consent, both these Writ Petitions are taken up and disposed of by this common order, as the points urged are one and the same and also in respect of very same premises.

2. The petitioner in W.P.No.18256/2020 would submit that they purchased Flat No.1 in Block M8, 4th Main Road, Besant Nagar, Chennai 600 090 during the year 2010 and thereafter the said premises has been let out in favour of M/s.Puma Sportswear Showroom. It is further stated that a small portion was constructed on the common area by the erstwhile vendor before the year 2007, with the consent of the other three flat owners of MIG Block 8 and electricity connection was also obtained for the commercial purpose.

3. The learned counsel appearing for the petitioner would submit that on 10.09.2020, a Stop Work Notice demanding production of approval plan was issued by the Corporation of Chennai, for which the petitioner has submitted his reply dated 12.09.2020, stating among other things that he did not indulge in any new construction activity as complained by Mrs.Janaki Arun Kumar. According to the learned counsel appearing for the petitioner, that person herself is guilty of putting up unauthorised construction. It is the further submission of the learned counsel appearing for the petitioner that without taking note of the contents of the reply dated 12.09.2020, Lock and Seal notice dated 29.09.2020, came to be issued by the respondents 1 and 2 and aggrieved by the same, a Special Revision / Appeal under Section 80-A of the Town and Country Planning Act, 1971 has also been preferred before the Government of India, represented by the Secretary to Government, Housing and Urban Development Department, Chennai 600 009 and it has also been acknowledged and therefore, prays for some order of restrain, till such disposal of the same by the appellate authority / Government.

4. The learned counsel appearing for the petitioner in W.P.No.18274 of 2020, who also stands on the similar footing would submit that steps are underway to demolish the alleged unauthorised portions and would further add that challenging the very same impugned Notice dated 29.09.2020, Special Revision / Appeal dated 28.10.2020 under Section 80-A of the Town and Country Planning Act, 1971, has been preferred before the Government / appellate authority and till such disposal, prays for an order of restrain, restraining the respondents from proceeding further with the same.

5. Per contra, Mr.Raja Srinivas, learned standing counsel, who accepts notice on behalf of the respondents 1 and 2, would submit that admittedly the constructions are wholly unauthorised

and in the light of the fact that action has been taken strictly in accordance with law, the petitioners cannot make any grievance and prays for dismissal of these Writ Petitions.

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

7. It is relevant to extract the details of the alleged deviated / unauthorised constructions as pointed out in the impugned notice:

In W.P.No.18256/2020:

S.No	Description	Allotment Building area as per TNHB layout	As per site	Deviated Area
1.	Ground Floor	852 sqft	1214 sft	Rear set back deviated building area at 362 sft
2.	Second Floor	Nil	362 sft	Rear Set back area extended unauthorisedly at 362 sft with 31 sft Toilet and Staricase

In W.P.No.18274/2020:

S.No	Description	Allotment Building area as per TNHB layout	As per site	Deviated Area
1.	Ground Floor	Nil	752 sft	Unauthorised / deviated building at side set back 725 sq.ft
2.	First Floor	852 sqt	1939 sft	Unauthorised / deviated building with rear set back area at 362 sft and side set back area eastern side at 725 sft

S.No	Description	Allotment Building area as per TNHB layout	As per site	Deviated Area
3.	Second Floor	Nil	1018 sft	Unauthorised building with side set back area 725 sft and extended area 293 sft staff rooms and toilet
4.	Third Floor	Nil	312 sft	1) 249 sft unauthorised room 2) 63 sft unauthorised UPS Room

8. Though the petitioners pray 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 petitioners, either in their Special Revisions / appeals or in these Writ Petitions, directs the Secretary to Government of Tamil Nadu, Housing and Urban Development Department, Secretariat, Chennai 600 009, to entertain the Special Revisions / appeals preferred by the petitioners, if the papers are otherwise in order and if any prayer for interim relief is made, shall take up the same at the first instance and give a disposal, in accordance with law, as expeditiously as possible, in the light of the apprehension / urgency expressed by the petitioners and may accord priority and dispose of the main revisions / appeals itself at an early date. It is also open to the petitioners to submit representations, as to the setting right of the deviations pointed out in the impugned notices and as and when the said representations are received, it is open to the respondents to do the needful, in accordance with law.

9. The Writ Petitions stand disposed of accordingly. No costs. Consequently connected miscellaneous petitions are closed.

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Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

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To

1.The Executive Engineer-I

Greater Chennai Corporation

Zone 13, Adyar, Chennai 600 020.

2.The Assistant Executive Engineer,

Unit-38, Greater Chennai Corporation

Zone-13, Adyar, Chennai 600 020.

3.The Assistant Engineer,

Division-176, Greater Chennai Corporation,

Zone-13, Adyar, Chennai 600 020.

4.The Secretary to Government of Tamil Nadu

Housing & Urban Development Department

Secretariat, Chennai 09

+1 cc to M/s.G.Rajasekar Advocate sr39756

+2 ccs to M/s.K.Rajasrinivas Advocate sr39732,39735

+2 ccs to M/s.M.Aravindan Advocate sr39546

W.P.Nos.18256 & 18274 of 2020

aa16/12/2020

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