

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.12.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

WP.NO.19583 OF 2020 & WMP.NO.24198 OF 2020

Dr.N.Kailasanathan

.. Petitioner

Versus

1. The Commissioner
Corporation of Chennai
Ripon Buildings
Chennai 600 003.

2. The Zonal Officer
Greater Chennai Corporation
Zone - 8, 2nd Cross Street [East]
Pulla Avenue, Shenoy Nagar
Chennai 600 030.

3. The Executive Engineer-1
Greater Chennai Corporation-Zone 8
2nd Cross Street [East]
Pulla Avenue, Shenoy Nagar
Chennai 600 030.

4. The Assistant Executive Engineer, Unit 22
Greater Chennai Corporation-Zone 8
2nd Cross Street [East], Pulla Avenue,
Shenoy Nagar, Chennai 600 030.

5. The Assistant Engineer-Dn-100
Greater Chennai Corporation
Central Region-Zone 8, 2nd Cross Street [East]
Pulla Avenue, Shenoy Nagar
Chennai 600 030.

.. Respondents

Prayer:-

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the proceedings relating to De-occupation Notice made in Notice No.ZONE-08/TPENF/2020 dated 24.11.2020 on the file of the respondents 3 to 5 herein.

For Petitioner : Mr.T.Murugamanickam
Senior Counsel assisted by
Mr.V.Rajesh

For RR 1 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.M.Ganesan, learned Standing counsel accepts notice on behalf of respondents 1 to 5.
- (3) The petitioner purchased a housing site, admeasuring to an extent of 2835 sq.ft., in Plot No.2569B comprised in Survey Nos.58, 66 [part], TS.No.205, Block-1C, Naduvakkarai Village, situate at Door No.12/107-A, A1 Block, 4th Street, Anna Nagar, Chennai-40, together with the superstructure admeasuring a total extent of 1399 sq.ft., comprising of Ground Floor [1066 sq.ft.] and First Floor [333 sq.ft.] through a registered Sale Deed bearing Doc.No.608 of 2005 dated 21.02.2005 registered on the file of the office of the Sub Registrar, Anna Nagar. The petitioner would further aver that the vendor has put up the said construction having a total extent of 1399 sq.ft. [Ground Floor-1066 sq.ft. + I Floor-333 sq.ft.] after obtaining appropriate Planning Permission vide Permit No.462/1983 dated 21.09.1983 granted by the Corporation of Chennai. The petitioner, after the purchase, made an additional construction and obtained Planning Permission vide Approval No.BA/CD05/00163/2008 dated 11.01.2008, in and by which, the petitioner was granted permission to extend a portion measuring 1212 sq.ft., each in ground and first floors respectively, thus having a total measurement of 2424 sq.ft., by the 1st respondent. It is also averred that the neighbour of the petitioner, viz., Tmt.Anuradha Subramaniam, filed WP.No.33632/2019 on the file of this Court alleging deviated/unauthorised construction and it came to be disposed of vide order dated 21.01.2020, by directing the concerned official to conduct an enquiry after putting on notice, the petitioner herein, who was arrayed as the 3rd respondent in WP.No.33632/2019 and thereafter, proceed further in accordance with law.

- (4) The petitioner was issued with a Locking and Sealing and Demolition Notice on 20.01.2020 by respondents 3 to 5 and making a challenge to the same, he filed a Special Revision/Appeal in Petition No.2363/2020 on the file of the Housing and Urban Development Department, Government of Tamil Nadu, Chennai, and also filed a petition for stay and it is still pending. The petitioner was called upon to attend the enquiry by the 2nd respondent vide Notice dated 22.09.2020 and accordingly, the petitioner attended the enquiry and also submitted relevant records. However, to the shock and surprise of the petitioner, he has been once again issued with the De-Occupation Notice dated 24.11.2020 and making a challenge to the same, came forward to file this writ petition.
- (5) Mr.T.Murugamanickam, learned Senior counsel assisted by Mr.V.Rajesh, learned counsel for the petitioner would submit that in response to the said De-Occupation Notice, the petitioner has also submitted his response dated 04.12.2020 and despite pendency of the Special Revision/Appeal before the Government, the respondents 3 to 5 are proceeding further in terms of the impugned De-Occupation Notice and since it is a residential premises and that apart, there is no deviations/unauthorised construction, the representation made by the petitioner may be sympathetically considered.
- (6) The Court heard the submissions of Mr.M.Ganesan, learned Standing counsel for the respondents and also perused the materials placed before it.
- (7) The fact remains that the petitioner, challenging the Locking and Sealing and Demolition Notice dated 20.01.2020, has filed a Special Revision/Appeal in Petition No.2363/2020 and pending disposal of the same, has also filed a petition for stay and both are pending. The petitioner, in response to the enquiry Notice dated 22.09.2020, has also submitted his response on 30.09.2020 by submitting relevant documents and also given his explanation vide his representation dated 04.12.2020.
- (8) This Court, in the light of the fact that the Special Revision/Appeal is pending before the Government right from February 2020 and also taking into consideration, the above facts and circumstances and without going into the merits of the claim projected by the petitioner, either in his Special Revision/Appeal or in this writ petition, directs the Principal Secretary to Government, State of Tamil Nadu, Housing and Urban Development Department, Secretariat, Fort St George, Chennai-600009, to take up the petition for stay/interim relief in Special Revision/Appeal Petition No.2363 of 2020 and after putting on notice, Tmt.Anuradha Subramaniam - petitioner in WP.No.33632 of 2019, shall dispose of the same 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 and communicate the decision taken, to the petitioner and till such time, respondents 2 to 5 shall defer further decision in terms of the Impugned De-Occupation Notice dated 24.11.2020. It is also open to the Principal Secretary, to dispose of the Special Revision/Appeal itself in accordance with law as expeditiously as possible and after hearing Tmt.Anuradha Subramaniam - petitioner in WP.No.33632 of 2019.

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

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

AP

To

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COPY TO:-

The Principal Secretary to Government,
State of Tamil Nadu,
Housing and Urban Development Department,
Secretariat, Fort St George, Chennai-600009

+1cc to Mr.V.Rajesh, Advocate, S.R.No.42772
+1cc to the Government Pleader, S.R.No.43027

WP.No.19583 of 2020

MG(CO)
CS/02/02/2021



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