

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 05.03.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN
WP.No.5293/2021 & WMP.Nos.5853 & 5854/2021

S.S.Umar Farooq

.. Petitioner

Versus

1.The Rural and Urban Development
St.George Fort, rep.by its Secretary
Fort St George, Chennai 600 009.

2.The Executive Engineer
Zone-10, Division-129,
Corporation of Chennai
Kodambakkam, Chennai 600 024.

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records pertaining to the impugned notice Letter No.10/00235/2021 dated 27.01.2021 issued by the 2nd respondent and quash the same.

For Petitioner :	Mr.A.Raja Mohamed
For R1 :	Mr.R.Vijayakumar
	Additional Government Pleader
For R2 :	Mr.K.Raja Srinivas
	Standing Counsel

ORDER

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

- (1)By consent, the writ petition is taken up for final disposal and is disposed of by this order.
- (2)Mr.R.Vijayakumar, learned Additional Government Pleader accepts notice on behalf of the 1st respondent and Mr.K.Raja Srinivas, learned Standing counsel accepts notice on behalf of the 2nd respondent.
- (3)The petitioner and two others claimed to have purchased the land and plot at Door No.38, Old Door NO.103, 5th Street, Kamaraj Colony, Kodambakkam, Chennai-600 024 comprised in TS.No.2/1 Block No.45 of Puliyur Village, admeasuring to an extent of 82 sq.m., for a valuable consideration through a registered Sale Deed bearing No.2133/2015 dated 01.06.2015 registered on the file of the office of the Sub Registrar,

Kodambakkam and claims to be in possession and enjoyment of the same.

- (4) The learned counsel for the petitioner would submit that to the shock and surprise of the petitioner, a Stop Work Notice dated 26.08.2020 has been issued by the 2nd respondent and thereafter, the petitioner submitted an application dated 11.11.2020 seeking regularisation u/s.113-C of the Town and Country Planning Act, 1971 and challenging the Locking and Sealing and Demolition Notice dated 26.08.2020, the petitioner has also filed a special revision/appeal by invoking the provisions u/s.80-A of the said Act on 08.02.2021 and it was received and acknowledged on 08.02.2021 by the 1st respondent.
- (5) The learned counsel would further submit that despite the pendency of the application filed u/s.113-C of the Town and Country Planning Act, as well as pendency of the special revision/appeal, u/s.80-A of the said Act, the 2nd respondent is attempting to seal the premises and since the major portion of the premises is used for residential purpose and only a minor portion is used for non-residential purpose for eking out the livelihood, the petitioner prays for appropriate orders for protection.
- (6) Mr. R. Vijayakumar, learned Additional Government Pleader appearing for the 1st respondent would submit that since the special revision/appeal is of very recent origin and that there are earlier matters pending, it may be difficult to accord priority and give a disposal of the matter.
- (7) Per contra, the learned Standing counsel appearing for the 2nd respondent would submit that since action is being taken strictly in accordance with the provisions of law, the petitioner may not make any grievance and prays for dismissal of this writ petition.
- (8) This Court has considered the rival submissions and also perused the materials placed before it.
- (9) A perusal of Annexure-IA to the Sale Deed dated 01.06.2015 in favour of the petitioner and others would disclose that the premises consisting of four floors and they are having the plinth area of 650 sq.ft., for ground, first and second floors and 400 sq.ft., in the 3rd floor. A further perusal of Annexure-IA with Planning Permission would prima facie disclose that the Planning permission has been accorded only for ground floor alone and it appears that additional constructions have been put up. No doubt, the petitioner has filed an application u/s.113-C of the Town and Country Planning Act, 1971, seeking regularisation and as per the Disclaimer column, pendency of the said application would not prevent the authority to proceed further and that apart, in the light of the sub-section 2A to section 56 of the said Act, pendency of any application u/s.49 of appeal u/s.79 or any litigation before a Court, is not a bar forbearing the respondents from proceeding further.
- (10) Be that as it may, since the special revision/appeal is of very recent origin, this Court is not in a position to give

a positive direction for the early disposal of the same. However, it is open to the petitioner to invoke the provisions of the Right to Information Act, to know about the fate/stage of the special revision/appeal pending before the 1st respondent and depending upon the receipt of the said information, he is at liberty to work out his further remedy in accordance with law.

(11) In the light of the fact that the major portion of the premises is used for residential purpose, the respondents shall defer further decision as to the Locking and Sealing of the residential portion of the premises till the disposal of the petition for stay by the 1st respondent and insofar as the portion used for commercial purpose is concerned, it is open to the 2nd respondent to proceed further in accordance with law.

(12) The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

AP
To

1. The Secretary
Rural and Urban Development
St. George Fort,
Fort St George, Chennai 600 009.

2. The Executive Engineer
Zone-10, Division-129,
Corporation of Chennai
Kodambakkam, Chennai 600 024.

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pmk (CO)
A.SK(16.06.2021)

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