

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.03.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

WP.No.5549/2021
& WMP.No.6186/2021

K.Ranganathan

..Petitioner

Versus

- 1.The Principal Secretary to Government
Housing & Urban Development Department
Secretariat, Fort St George, Chennai 600 009.
- 2.M/s.Chennai Metropolitan Development Authority
rep.by its Member Secretary,
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008.
- 3.The Executive Engineer
Division 162, Greater Chennai Corporation
Zonal Office 12, Alandur
Chennai 600 016.
- 4.The Assistant Executive Engineer
Division 162, Greater Chennai Corporation
Unit-36, Alandur, Chennai 600 016.
- 5.The Assistant Engineer,
Division 161, Greater Chennai Corporation
Alandur, Chennai 600 016.

6.Mrs.S.Pauline Jannet

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus seeking direction to consider the appeal dated 24.02.2021 filed by the petitioner in Letter No.12/00045/2021 dated 22.02.2021 and as a consequential relief forbearing the 3rd to 5th respondents or anyone on their behalf from initiating any coercive action of Lock and Seal and Demolition Notice dated 22.02.2021 with regard to the petitioner property at Door No.84/B, Railway Station Road, Alandur, Chennai 600 016.

For Petitioner : Mr.Ar.L.Sundaresan
Senior Counsel assisted by
Mr.T.Ramachandran

For R1 : Mr.R.Vijayakumar
Additional Government Pleader

For R2 : M/s.P.Veena Suresh
Standing counsel

For RR3 to 5 : 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 ; M/s.P.Veena Suresh, learned Standing counsel accepts notice on behalf of the 2nd respondent ; and Mr.K.Raja Srinivas, learned Standing counsel accepts notice on behalf of respondents 3 to 5.
- (3) The petitioner, in the affidavit filed in support of the writ petition, would aver among other things that the land and building bearing Door No.10/84B, Railway Station Road, New S.No.127/1, TS.No.1362, Alandur, originally belong to one B.T.Megavarman and was conveyed in favour of the petitioner herein through a registered Sale Deed bearing Doc.No.2193/2020 dated 04.12.2020. According to the petitioner, the vendor was in possession of the land admeasuring to an extent of 868 sq.ft., with a superstructure consisting of Ground + II Floors and the Chennai Metro Rail Limited, for their project, had acquired the land to an extent of 717 sq.ft., and paid compensation to the original land owner and the petitioner, had purchased the remaining extent of land in the said survey number which was partly demolished and in order to make it habitable, has carried out additions in the form of renovation and repairs and alleging that the building itself is an unauthorised one, respondents 3 to 5 has pasted thee Locking and Sealing and Demolition Notice dated 22.02.2021 and aggrieved by the same, the petitioner has also filed a special revision/appeal u/s.80A of the Town and Country Planning Act, 1971, before the Government and the same was acknowledged on 24.02.201 and apprehending that the premises would be locked and sealed, pending disposal of the same, came forward to file this writ petition.

- (4) Mr. Ar. L. Sundaresan, learned Senior counsel assisted by Mr. T. Ramachandran, learned counsel appearing for the petitioner would submit that in the light of the pendency of the special revision / appeal before the 1st respondent, respondents 3 to 5 may be directed to defer the proceedings till the disposal of the special revision/appeal.
- (5) The learned Standing counsel appearing for respondents 3 to 5 on instructions, would submit that the site on which the building has been constructed, is to minimum extent, no construction should come into being and it appears from the materials that the petitioner, without causing any due diligence, had purchased the land along with the partly demolished superstructure and without obtaining any planning permission whatsoever, had put up construction consisting of ground + 2 floors and has also intended to let the ground floor for commercial exploitation and as such, the petitioner is not entitled to any relief and prays for dismissal of this writ petition.
- (6) In response to the same, the learned senior counsel for the petitioner would submit that the first and second floors are used for residential purpose for the petitioner's own family and is depending on the income earned out of the let out ground floor for commercial purpose and prays for some equitable relief.
- (7) This Court has considered the rival submissions and also perused the materials placed before it.
- (8) This Court, taking into consideration the above facts and circumstances and without going into the claim projected by the petitioner, either in the special revision/appeal or in this writ petition, directs the 1st respondent to entertain the special revision/appeal, if the papers are otherwise in order and shall take up the prayer for the interim relief at the first instance and give a disposal in accordance with law within a period of four 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 3 to 5 shall defer further decision in terms of the impugned notice. It is made clear that the petitioner, till the disposal of the appeal/special revision, shall not create any third party rights in respect of the land and superstructure in question. It is also open to the respondents 3 to 5 to cause inspection of any encroachment / unauthorised construction in respect of the superstructures existing in the Railway Station Road, Alandur, Chennai-16 and if the result of the inspection reveals any infraction, it is always open to

them to initiate action in accordance with law and complete the said exercise as expeditiously as possible.

(9)The writ petition stands disposed of accordingly. No costs.

-s/d-

Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

AP
To

- 1.The Principal Secretary to Government
Housing & Urban Development Department
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+1 Cc to Mr.T.Ramachandran, Advocate sr 14817
+1 CC to Ms.P. Veena Suresh, Advocate sr 14982.

WP.No.5549/2021

KJ(CO)
SP(17/03/2021)