



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

Writ Petition No.27899 of 2021
and
WMP.No.29451 of 2021

M.V.Fakruddin Ali Ahmed

..Petitioner

Vs

1. The Secretary to Government
Housing and Urban Development Department
Secretariat, Chennai-600 009
2. The Executive Engineer
Zone 1, Thiruvottriyur
Chennai-600 019
3. The Assistant Executive Engineer
Unit 3, Thiruvottriyur
Chennai-600 019
4. The Assistant Engineer
Division 14, Zonal Officer
Thiruvottriyur, Chennai-600 019

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus to call for the records of the respondents 2 to 4 made in impugned notice in Letter No.01/'00657/2021 dated 10.12.2021 and quash the same as illegal and arbitrary and non-est in law and consequently directing the 1st respondent to dispose of the appeal filed by the petitioner on 10.12.2021 under Section 80-A of Tamil Nadu Town and Country Planning Act as against the order of the 2 to 4th respondents dated 02.11.2021 in Letter No.01/02293/2021 and till then to stay further proceedings.

For Petitioner : Mr.T.N.Rajagopalan

For Respondents : Mr.K.Raja Srinivas, for R2 to R4

Mr.M.Alagu Goutham, Govt. Advocate for R1



ORDER

[Order of the Court was made by R. MAHADEVAN, J.]

The petitioner has come forward with this writ petition challenging the notice dated 10.12.2021 issued by the respondents 2 to 4 and quash the same and consequently directing the 1st respondent to dispose of the appeal filed by the petitioner on 10.12.2021 under Section 80-A of the Tamil Nadu Town and Country Planning Act as against the order of the respondents 2 to 4 dated 02.11.2021 and till then, to stay further proceedings.

2. It is the case of the petitioner that he is the absolute owner of the property bearing No.57, Ennore Express Road, Ondikuppam, Chennai - 600 019 comprising in S.No.208/Part, Thiruvotriyur Village and Taluk, Tiruvallore District, measuring to an extent of 3 grounds, which was originally purchased by his father Varusai Mohammed from one Sri Santhilal Jain and others by a registered sale deed dated 08.09.1982 bearing Doc.No.2917/1982, on the file of SRO, Thiruvotriyur. In the year 1983, the father of the petitioner constructed additional godown and obtained necessary electricity connection and the same was also assessed to tax. After the death of his father, the petitioner has been in possession and enjoyment of the same. While so, lock and seal notice dated 21.05.2021 was affixed in the said property, to which, he sent a detailed reply to the respondents 2 to 4 on 20.06.2021. Without considering the same, the authorities sent de-occupation notice dated 22.06.2021. Feeling aggrieved, the petitioner filed WP.No.16055 of 2021, which was disposed of by this court, by setting aside those notices issued against him and granting liberty to the respondents to take action in accordance with law. Thereafter, the respondents 2 to 4 issued lock and seal and demolition notice dated 02.11.2021 to the petitioner. Challenging the same, the petitioner preferred an appeal to the Secretary to the Government, under section 80A of the Tamil Nadu Town and Country Planning Act, 1971 along with stay application. During the pendency of the said appeal, the respondents 2 to 4 issued de-occupation notice dated 10.12.2021 to the petitioner. Therefore, the petitioner is before this court with the present writ petition for the aforesaid relief.

3. The learned counsel for the petitioner submitted that the building sought to be sealed was constructed forty five years back and no new construction activity is going on in the disputed area at present. Without considering the same in a proper perspective, the respondent authorities issued lock and



seal and demolition notice following which de-occupation notice, to the petitioner. Finding no other option, the petitioner has preferred this writ petition to challenge the same. However, the learned counsel fairly submitted that it would suffice, if a direction is issued to the first respondent to dispose of the appeal filed by the petitioner under section 80-A of the Tamil Nadu Town and Country Planning Act and grant an order of interim stay, till the disposal of the said appeal, for which, there is no serious objection on the side of the respondents.

4. Considering the limited relief now sought by the learned counsel for the petitioner, which has not been seriously opposed on the side of the respondents, this court without going into the merits of the case, directs the first respondent to take up the appeal filed under Section 80-A of Tamil Nadu Town and Country Planning Act and after giving opportunity of hearing to the petitioner, consider and dispose of the same, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. Till such time, the respondents shall maintain status quo as on date.

5. The Writ Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

nvsri

To

1. The Secretary to Government
Housing and Urban Development Department
Secretariat, Chennai-600 009
2. The Executive Engineer
Zone 1, Thiruvottriyur
Chennai-600 019
3. The Assistant Executive Engineer
Unit 3, Thiruvottriyur
Chennai-600 019



4. The Assistant Engineer
Division 14, Zonal Officer
Thriuvottiyur
Chennai-600 019.

WEB COPY

+1cc to Mr.T.N.Rajagopalan, Advocate, S.R.No.69394
+1cc to the Government Pleader, S.R.No.69899

W.P.No.27899 of 2021

RSV[co]
NSK 28/01/2022