

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.16202 of 2022
and
WMP.No.15567 of 2022

B.Senthil Kumar

... Petitioner

-vs-

1. The State rep. by Secretary,
Housing and Urban Development Department,
Fort St. George,
Chennai-600 009.
2. The Commissioner,
Greater Chennai Corporation,
Ripon Buildings,
Chennai-600 003.
3. The Executive Engineer,
Greater Chennai Corporation,
Zone 04, T.H.Road,
Tondiarpet, Chennai-21.
4. The Assistant Executive Engineer,
Unit-10, Greater Chennai Corporation,
T.H.Road, Tondiarpet, Chennai-21.
5. The Assistant Engineer,
Greater Chennai Corporation,
Division-041, KNS Depot,
Korukkupet, J.J.Nagar,
Near Korukkupet Railway Station,
Chennai-600 021.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Mandamus, forbearing the respondents 3 to 5 from taking further action in pursuant to the Lock and Seal and Demolition Notice issued under Section 57 read

with Section 85 of the Town and Country Planning Act, 1971 in Ref. Letter No.04/00043/2020 dated 23.01.2020 in respect of the superstructure at Door No.6/6, Block No.62, Plot No.91, R.S.No.3847/1, Anna Road, Annai Sathya Nagar Main Road, Annai Sathya Nagar, Kodungaiyur, Tondiarpet, Chennai-600 118 pending disposal of the appeal dated 22.09.2021 filed under Section 80A of the Tamil Nadu Town and Country Planning Act, 1971 on the file of the first respondent.

For Petitioner : Mr.J.R.K.Bhavanantham

For Respondents : Mr.A.P.R.Ilamparithi,
AGP for R1

Mr.K.Raja Shrinivas,
Standing Counsel for R2 to 5

ORDER

(Order of the Court was made by T.RAJA, J.)

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, forbearing the respondents 3 to 5 from taking further action in pursuant to the Lock and Seal and Demolition Notice issued under Section 57 read with Section 85 of the Town and Country Planning Act, 1971 in Ref. Letter No.04/00043/2020 dated 23.01.2020 in respect of the superstructure at Door No.6/6, Block No.62, Plot No.91, R.S.No.3847/1, Anna Road, Annai Sathya Nagar Main Road, Annai Sathya Nagar, Kodungaiyur, Tondiarpet, Chennai-600 118 pending disposal of the appeal dated 22.09.2021 filed under Section 80A of the Tamil Nadu Town and Country Planning Act, 1971 on the file of the first respondent.

2. Learned Counsel appearing for the petitioner would submit that the petitioner, who claims to be a person hailing from economically backward community, has purchased a hut at Door No.6, Annai Sathya Nagar 2nd Street, Kodungaiyur, Chennai, to an extent of 581 sq.ft. through a registered Sale Deed dated 28.11.2001 in Document No.3444 of 2001 on the file of the Sub-Registrar, Royapuram. Since the said hut got deteriorated and became dilapidated one, he was advised to reconstruct a semi permanent tiled superstructure and as the said plot is having only 581 sq.ft., he was under the impression that it does not require any planning permission. Therefore, he has put up the construction. However, his paternal junior uncle Thangavelsamy, who is inimically disposed towards him in a property dispute in his native village induced one K.R.Veeramani a resident of Tondiarpet, Chennai to lodge a complaint with the respondents against the petitioner based on which he was issued with a notice dated 13/02/2019 asking him to produce the plan and stop the work. Following the same, Lock and Seal and Demolition

Notice dated 23.01.2020 was also issued by the respondents 3 to 5. Aggrieved thereby, he has also filed a Special Revision under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 on 22.09.2021 along with a Stay Petition under Section 80A (3) of the Act. During the pendency of the said appeal before the 1st respondent, apprehending some coercive action by the respondents 2 to 5, he has been advised to come to this Court by filing a present Writ Petition.

3. Mr.A.P.R.Ilamparithi, learned Additional Government Pleader takes notice for 1st respondent and Mr.K.Raja Shrinivas, learned Standing Counsel takes notice for respondents 2 to 5.

4. Learned Counsel appearing for the respondents 2 to 5 would submit that the petitioner has put up a construction in his land-in-question having an extent of 581 sq.ft. without any planning permission. Therefore, he was issued with a Stop Work Notice calling upon him to produce the approved plan and also to stop further construction followed by the Lock and Seal and Demolition Notice dated 23.01.2020. Aggrieved thereby, he has filed a Special Revision before the 1st respondent and the same is also pending. In the meanwhile apprehending further coercive action, he has filed this Writ Petition. Therefore, suitable direction may be given, he pleaded.

5. Considering the facts and circumstances of the matter, more particularly, the fact that the Special Revision filed under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, is pending consideration before the 1st respondent herein, namely, the Secretary, Government of Tamil Nadu, Housing and Urban Development Department, Fort St. George, Chennai-9, we hereby direct the 1st respondent to consider and dispose of the same on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this Order. In the meanwhile, the respondents shall not take any coercive steps as against the petitioner and the parties are directed to maintain status quo as on today.

6. With the above observation and direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary, State of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George, Chennai-600 009.
2. The Commissioner,
Greater Chennai Corporation,
Ripon Buildings, Chennai-600 003.
3. The Executive Engineer,
Greater Chennai Corporation,
Zone 04, T.H.Road,
Tondiarpet, Chennai-21.
4. The Assistant Executive Engineer,
Unit-10, Greater Chennai Corporation,
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5. The Assistant Engineer,
Greater Chennai Corporation,
Division-041, KNS Depot,
Korukkupet, J.J.Nagar,
Near Korukkupet Railway Station,
Chennai-600 021.

+1cc to Mr.J.R.K.Bhavanantham, Advocate, S.R.No.41472

W.P.No.16202/2022

SKM[co]
NSK/21/07/2022