

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.6.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.19869 of 2016
and
W.M.P.Nos.17132 and 17133 of 2016

1. D.Rajappa
2. Tmt.R.Jayalakshmi
Versus
Petitioners

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
Housing and Urban Development
Department,
Secretariat, St. Fort George,
Chennai 600 009.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi-Irwin Road,
Egmore, Chennai 600 008.
3. The Executive Officer,
Naravarikuppam Town Panchayat,
Redhills, Chennai 600 052.

4. Tr.B.Dhayalan
Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondents 1 to 3 to remove the lock and seal put up in the petitioner shop by namely D.R.Super Market and Furniture situated at Survey No.86/2 Naravarikuppam Village G.N.T. Road Redhills Chennai-600 056 and handover the same to the petitioners and thereby direct the respondents not to take any coercive steps against the petitioners above said addressed building till the disposal of the statutory appeal pending before the 1st respondent and till the order of extension of regularization as per recommendation of Justice S.Rajeswaran Committee.

For petitioners : Mr.R.Singaravelan for
Mr.P.Gopalakrishnan

For R1 : Mr.P.S.Sivashanmugasundaram,
Special Government Pleader

For R2 : Mr.C.Johnson

ORDER

(Order of the court was made by HULUVADI G.RAMESH, J.)

The writ petition is filed seeking issuance of a writ of mandamus directing the respondents 1 to 3 to remove the lock and seal put up in the petitioner shop by namely D.R.Super Market and Furniture situated at Survey No.86/2 Naravarikuppam Village G.N.T. Road Redhills Chennai-600 056 and handover the same to the petitioners and thereby direct the respondents not to take any coercive steps against the petitioners above said addressed building till the disposal of the statutory appeal pending before the 1st respondent and till the order of extension of regularization as per recommendation of Justice S.Rajeswaran Committee.

2. The factual matrix behind the present petition is as under:-

The petitioners are the absolute owners of the property situate in Survey No.86/2, Naravarikuppam Village, G.N.T.Road, Redhills, Chennai to an extent of 16 cents having purchased the same vide sale deeds in Document Nos.5074 and 5132 of 1995 dated 13.12.1995 and 15.12.1995. They moved the planning authorities for regularization of their construction in the said land. The adjacent land owner viz., the fourth respondent objected for regularization and filed writ petition in W.P.No.3248 of 2006 and succeeded in his attempt and the writ petitioners, who had filed W.P.No.27623 of 2005, failed in getting an order in their favour. The SLP filed by the petitioners also was dismissed. Consequently, the second respondent issued notice of demolition dated 29.1.2013 and notice for lock and seal dated 1.2.2013. Thereafter, the petitioners had filed another application on 11.2.2013 for regularization. Pending their application for regularisation, the petitioners got an order of injunction alone from this court vide order dated 20.2.2013 in M.P.No.1 of 2013 in W.P.No.3927 of 2013. However, the second respondent issued notice for lock and seal of the premises of the petitioners on 21.4.2016. Having aggrieved over the same, the petitioners had filed an appeal under section 79 of the Tamil Nadu Town and Country Planning Act, 1971 before the first respondent. Pending such appeal, the fourth respondent, viz., the owner of the adjacent building filed Contempt Petition No.1893 of 2012. When the said contempt petition was considered, the pendency of the appeal filed by the present writ petitioners was not brought to

the notice of the court and this court has directed for removal of the chattels. Aggrieved by the same, the present writ petitioners moved the vacation court by filing W.P.No.18157 of 2016 and this court, by order dated 19.5.2016, has directed the first respondent to pass orders in the stay petition filed alongwith the appeal on merits and in accordance with law and gave liberty to the petitioners to move a a review application to review the order passed in the contempt petition. Accordingly, the petitioners had moved the vacation court with a review petition alongwith a petition to dispense with in W.M.P.No.232 of 2016. The Division Bench, while ordering the dispense with petition, posted the main case for review on 13.6.2016, by its order dated 25.5.2016. But, to the shock and surprise, on 4.6.2016, the officials of the respondents, with the aid of police, locked the premises of the petitioners wherein perishable goods were stored. Hence, the petitioners are constrained to file the present writ petition.

3. Heard the learned counsel appearing for either side.

4. The grievance of the petitioner is that the petitioner has filed an appeal before the first respondent which is still pending and whiles, the authorities have locked the premises of the petitioners wherein they had stored highly perishable goods which loses its value day by day.

5. From the above facts and circumstances, it is crystal clear that there is a tug of war between the petitioners on one side and the authorities on the other side having the fourth respondent in the middle in the attempts of the petitioners in getting their construction regularised. Admittedly, the petitioners have also filed appeal before the first respondent and the same is still pending. Therefore, there cannot be any necessity for the authorities to lock the premises of the petitioners in the odd hours. In that view of the matter, it is held that till the appeal before the appellate authority is finally disposed of, the lock put to the premises should be removed and the finality will be based on the outcome of the appeal. Therefore, respondents 1 to 3 are directed to open the lock by 5.00 pm today itself. The learned Special Government Pleader undertakes to convey the direction of this court to the authorities concerned.

6. In view of the above, the writ petition is disposed of. No costs. The connected miscellaneous petitions are closed.
ssk.

-s/d-

Assistant Registrar (CS-VI)

True Copy

Sub-Assistant Registrar

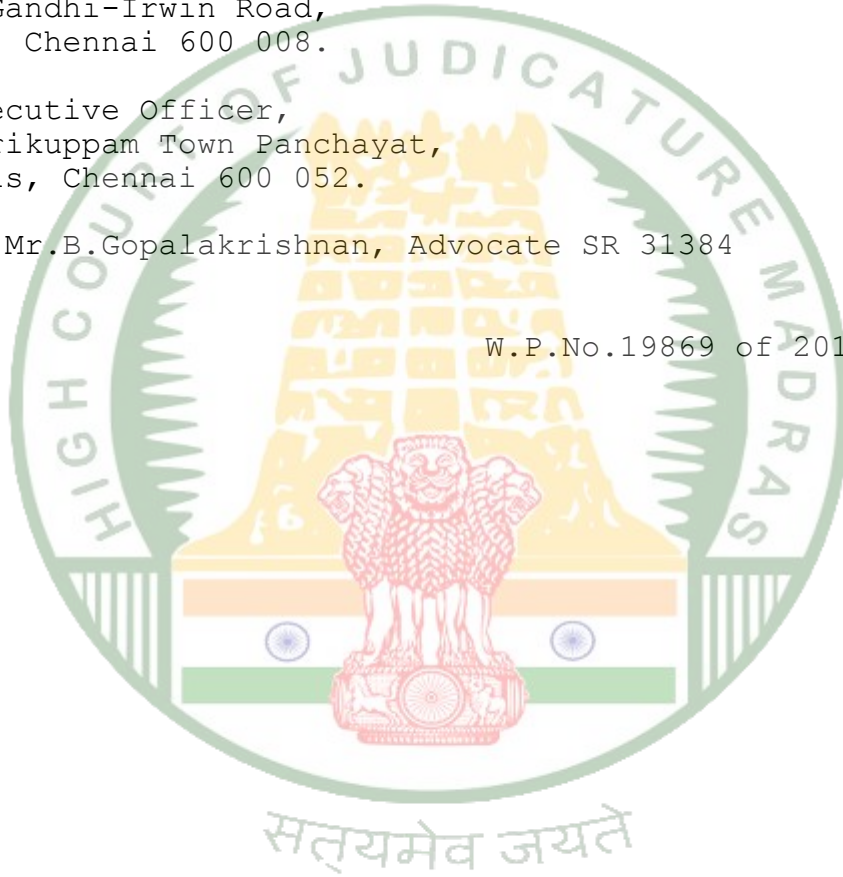
To:

1. The Secretary to Government,
State of Tamil Nadu,
Housing and Urban Development
Department,
Secretariat, St. Fort George, Chennai 600 009.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi-Irwin Road,
Egmore, Chennai 600 008.
3. The Executive Officer,
Naravarikuppam Town Panchayat,
Redhills, Chennai 600 052.

+ 1 cc to Mr.B.Gopalakrishnan, Advocate SR 31384

scd(co)
prk16/6

W.P.No.19869 of 2016



WEB COPY