

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2016

CORAM

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

Writ Petition No.25125 of 2016
and

WMP.No.21519 of 2016

1.R.Amarnath

2.R.Ashwin Kumar Pushanam

... Petitioners

Vs.

1. The Corporation of Chennai,
rep. by its Commissioner,
Ripon Building,
Chennai- 600 003.

2. The Executive Engineer,
Town Planning (Enforcement)
O/o. Regional Deputy Commissioner (Central)
Corporation of Chennai,
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.

3. The Government of Tamil Nadu,
rep. by its Secretary to Government,
Housing and Urban Development Department,
Fort St. George,
Chennai- 600 009.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the respondents 1 and 2 or anybody on their behalf from initiating any coercive action of locking and sealing and demolition (de-occupation) with regard to the building put up at No.46, Sowrastra Nagar, 8th Street, Choolaimedu, Chennai-600 094 pending determination of the Revision Petition submitted by the petitioners under Section 80A and 80-A(3) of the Tamil Nadu Town and Country Planning Act dated 09.07.2016 with the third respondent.

For Petitioners : Mr.R.Mohan
For R1 & R2 : Mr.A.Nagarajan
For R3 : Mrs.A.Sri Jayanthi,
Special Government Pleader

ORDER

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

Mr.A.Nagarajan, learned counsel accepts notice on behalf of respondents 1 and 2 and Mrs.A.Srijayanthi, learned Special Government Pleader accepts notice on behalf of the third respondent. With the consent of both the parties, the writ petition is taken up for final disposal at the stage of admission itself.

2. The prayer made in the Writ Petition is to issue a Writ of Mandamus, forbearing respondents 1 and 2 or anybody on their behalf from initiating any coercive action of locking and sealing and demolition (de-occupation) with regard to the building put up at No.46, Sowrastra Nagar, 8th Street, Choolaimedu, Chennai-600 094 pending determination of the Revision Petition submitted by the petitioners under Section 80A and 80-A(3) of the Tamil Nadu Town and Country Planning Act dated 09.07.2016 with the third respondent.

3. According to the petitioners, they are the brothers and joint owners of the property at No.46, Sowrastra Nagar, 8th Street, Choolaimedu, Chennai-94 by way of registered settlement and release deed executed by their mother and sister in the year 2011. Subsequently, name transfer has been effected in their favour in respect of the property. A building was put up in the said property by their parents in the year 1998, after obtaining planning permission from the Corporation of Chennai and there was no violation or deviations in the construction. Few years back, the petitioners had made internal partitions without disturbing the original structure for dwelling purpose and changed the entry door on other side according to Vasthu, which do not require any permission. While so, the second respondent issued a De-occupation notice dated 06.07.2016 calling upon the petitioners to discontinue the use and occupation of the premises in question. Challenging the same, the petitioners preferred a Special Revision Petition along with stay petition under Sections 80-A and 80-A(3) of the Tamil Nadu Town and Country Planning Act, 1971 on 09.07.2016 before the third respondent. Pending the same, respondents 1 and 2 are threatening the petitioners of initiating action to lock and

seal the premises. Hence, the present writ petition came to be filed by the petitioners.

4. Heard both sides and perused the available materials.

5. Considering the facts and circumstances of the case, we direct the third respondent to consider the Special Revision Petition dated 09.07.2016 filed by the petitioners under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 and pass appropriate orders, on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioners. Till the disposal of the Special Revision Petition, the parties are directed to maintain the status quo as on today.

6. Accordingly, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Corporation of Chennai,
Ripon Building, Chennai- 600 003.
2. The Executive Engineer,
Town Planning (Enforcement)
O/o. Regional Deputy Commissioner (Central)
Corporation of Chennai,
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.
3. The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George, Chennai- 600 009.

+1cc to Mr.A.Nagarajan, Advocate, S.R.No.40901
+1cc to Mr.R.Mohan, Advocate, S.R.No.40703
+1cc to the Government Pleader, S.R.No.41297

W.P.No.25125 of 2016

MSM(CO)
CA(04/08/2016)