

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH  
AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.26191 of 2016

1. B.Champalal

2. B.Bharathkumar

... Petitioners

-Vs-

1. The Government of Tamil Nadu  
rep.by its Secretary  
Housing & Urban Development Department  
Secretariat, Fort St.George  
Chennai 600 009

2. The Regional Deputy Commissioner  
Greater Chennai Corporation  
O/o Regional Deputy Commissioner (North)  
No.62, Basin Bridge Road  
Chennai 600 021

3. The Executive Engineer  
RDC (North Office)  
Zone-V, Greater Chennai Corporation  
Chennai

4. The Assistant Executive Engineer  
Division-54, Unit-13, Zone-V  
Park Town, Chennai 600 001

... Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, forbearing the 2<sup>nd</sup> to 4<sup>th</sup> respondents from in any way interfering with the building at Old No.11, New No.38-A & 38-B, Nambuliyar Street, Kondithopu, Sowcarpet, Chennai 600 079, particularly by way of De-occupation notice and pending final determination of the appeal dated 03.05.2016 pending with the 1<sup>st</sup> respondent under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971.

For Petitioners : Mrs.S.Meenakumari

For Respondents : Mrs.A.Srijayanthi  
Special Government Pleader for R1  
Mr.V.C.Selvasekaran for R2 to R4

ORDER

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

The petitioners seek for issuance of a writ of mandamus, forbearing the second to fourth respondents from in any way interfering with the building at Old No.11, New No.38-A & 38-B, Nambuliyar Street, Kondithopu, Sowcarpet, Chennai 600 079, particularly by way of De-occupation notice and pending final determination of the appeal dated 03.05.2016 pending with the first respondent under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971.

2. Heard the learned counsel for the petitioner. Mrs.A.Srijayanthi, learned Special Government Pleader is directed to take notice on behalf of the first respondent and Mr.V.C.Selvasekaran, learned standing counsel is directed to take notice on behalf of the respondents 2 to 4.

3. It appears that the petitioners are the absolute owners of the land and building comprised in Old No.11, New No.38-A & 38-B, Nambuliyar Street, Kondithopu, Sowcarpet, Chennai and have been accorded planning and building permits for the construction of stilt plus two floors. However, alleging deviations from the sanctioned plan, proceedings have been initiated by the respondent-Corporation and also a notice under Section 56(2) (iii) and (2A) of the Tamil Nadu Town and Country Planning Act has been issued to the petitioners on 6.4.2016 for de-occupation of the premises. Aggrieved by the same, the petitioners are said to have preferred a special revision petition under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 before the first respondent and pending disposal of the same, without any opportunity of hearing, the respondents 2 to 4 are attempting to take coercive action against the petitioners. Hence this writ petition.

4. In view of the above, it is for the first respondent/Government to consider the special revision petition filed by the petitioners under Section 80-A of the Tamil Nadu Town and Country Planning Act and to take a decision in accordance with law after hearing the petitioners as well permitting them to submit a detailed representation and thereafter to pass necessary orders within a period of two

months from the date of receipt of a copy of this order. Till then, the respondents shall not take any coercive action against the petitioners. With this direction, the writ petition stands disposed of. Consequently, W.M.P.No.22459 of 2016 is closed. No costs.

Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

SS

To

1. The Secretary to Government  
Housing & Urban Development Department  
Fort St.George  
Chennai 600 009
2. The Regional Deputy Commissioner  
Greater Chennai Corporation  
O/o Regional Deputy Commissioner (North)  
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3. The Executive Engineer  
RDC (North Office)  
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Chennai
4. The Assistant Executive Engineer  
Division-54, Unit-13, Zone-V  
Park Town  
Chennai 600 001.

+1cc to Mr.D.Balachandran, Advocate, S.R.No.42462  
+1cc to the Government Pleader, S.R.No.42527

W.P.No.26191 of 2016

LRS (CO)  
CA(05/08/2016)