

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:29.07.2016

CORAM

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

Writ Petition No.26599 of 2016  
and  
WMP.Nos.22789 and 22790 of 2016

Chandrakala

Vs.

...Petitioner

- 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 Assistant Engineer  
Division-124 I/C  
Mylapore, Chennai-600 004
- 4.The Asst.Executive Engineer, Unit:25  
Corporation of Chennai, Regional Office-Central  
2<sup>nd</sup> Cross Street (East), Pulla Avenue  
Shenoy Nagar  
Chennai-600 030
- 5.The Executive Engineer  
TP Enforcement -Region Central  
Corporation of Chennai, Regional Office-Central  
2<sup>nd</sup> Cross Street (east) Pulla Avenue  
Shenoy Nagar, Chennai-600 030
- 6.Viswakamal Residents'Welfare Association  
Rep. By its President  
New No.62, Old No.245,  
R.K.Mutt Road, Mylapore, Chennai-600 004

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents not to take any coercive steps against the petitioner's building superstructure in Flat No.1, Ground Floor of Viswakamal Apartments, situated at New Door No.157, New Door No.62/1, Old Door No.245/1, R.K.Mutt Road, Mylapore, Chennai-600 004, comprised in R.S.No.3351, 3347/4 & 3346/13, Block No.67 of Mylapore Revenue Division, Mylapore-Triplicane Taluk, Zone-10, Now Zone-9, Division No.147 and now Division No.124 till the disposal of statutory appeal dated 22.07.2016 pending before the 1<sup>st</sup> respondent and till the order of regularization by way of reconverting existing plan in planning permit No.170/87 as per committee is issued.

For Petitioner : Mr.S.Kumaresan

For Respondents : Mrs.A.Srijayanthi, Spl.G.P. For R1

Mr.K.Raja Shrinivas for R2

Mr.V.C.Selvasekaran for R3 to R5

#### O R D E R

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

Heard Mr.S.Kumaresan, learned counsel for the petitioner, Mrs.A.Srijayanthi, learned Special Government Pleader, who accepts notice on behalf of the 1<sup>st</sup> respondent, Mr.K.Raja Shrinivas, learned counsel for the 2<sup>nd</sup> respondent and Mr.V.C.Selvasekaran, learned Standing counsel, accepting notice for the 3<sup>rd</sup> respondent.

2. The petitioner is the purchaser of a residential flat bearing Flat No.1 in the Ground Floor of the Apartment called as "VISWAKAMAL" situated in the above mentioned address. The 2<sup>nd</sup> respondent/CMDA issued impugned notice dated 20.02.2015 in Letter No.ESI/8834/2014 to the Manager, Syndicate Bank, who is the petitioner's vendor's tenant notifying to de-occupy the building within three days to enable the authorities to carry out further enforcement action viz., Locking & Sealing and Demolition of the unauthorized apartment under question. As against the said notice under Section 56(2) sub clause (iii) of Town and Country Planning Act 1971 and rejection order in Lr.No.Reg.MSB/C6/47246/00 dated 20.08.2014, appeal under Section 79 of the Tamil Nadu Town and Country Planning Act, 1971, has been filed by the petitioner, before the 1<sup>st</sup> respondent. The present Writ Petition is filed praying for a direction to the respondent not to take any coercive steps against the petitioner building, pending disposal of statutory appeal dated 22.07.2016.

3. Learned counsel for the petitioner submits that the 1<sup>st</sup> respondent may be directed to dispose of the appeal filed under Section 79 of the Act.

4. Mrs.A.Srijayanthi, learned Special Government Pleader, accepting notice for the 1<sup>st</sup> respondent submits that 2 months time may be given to the 1<sup>st</sup> respondent to dispose of the appeal under Section 79 of the Act, filed by the Petitioner.

5. Considering all the facts and circumstances of the case, we direct the 1<sup>st</sup> respondent to consider the appeal filed by the petitioner under Section 79 of the Act and pass necessary orders within a period of 2 months from the date of receipt of a copy of this order, after affording sufficient opportunity to the petitioner. Till such orders are passed, respondents 2 to 5 shall not take any coercive steps against the Petitioner's residential apartment.

6. The Writ Petition is disposed of with the above direction. No costs. Consequently, connected WMPs are closed.

nvsri

Sd/-  
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Secretary to Government  
The State of Tamil Nadu  
Housing and Urban Development Department  
Secretariat, St.Fort George  
Chennai-600 009
- 2.The Member Secretary  
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2<sup>nd</sup> Cross Street (east) Pulla Avenue  
Shenoy Nagar, Chennai-600 030

+ 5 ccs to Mr.S.Kumaresan, Advocate Sr 43044

+ 1 cc to Mr.K.Raja Srinivas, Advocate Sr 43192

+ 1 cc to The Govt.Pleader, Sr 43324

KR/11/8/16

W.P.No.26599 of 2016



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