

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2016

CORAM

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

Writ Petition No.28097 of 2016
and
WMP.No.24242 of 2016

E.Geetha

...Petitioner

Vs.

- 1.The State of Tamil Nadu
Rep by its Principal Secretary to Government
Housing and Urban Development Department
Fort St.George, Secretariat,
Chennai-600 009
- 2.The Chennai Metropolitan Development Authority(CMDA)
Rep. By its Member Secretary
Thalamuthu Natarajan Building
No.1, Gandhi-Irwin Road
Egmore, Chennai-600 008
- 3.Alamathi Village Panchayat
Rep. By its Executive Officer cum President
Alamathi Village, Sholavaram Panchayat Union
Thiruvallur District
- 4.Sholavaram Panchayat Union
Rep. By its Commissioner
Sholavaram, Thiruvallur District

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent pertaining to impugned letter No.B3/20205/2015 dated 06.05.2016 in respect of lands comprised in Survey Nos.127/1C, 127/1B, 127/2A and 127/1A situated in No.111, Alamathi I Revenue Village abutting Redhills-Thiruvallur High Road, Sholavaram Panchayat Union, Thiruvallur District and quash the same and consequently forbear the 2nd respondent from in any manner sealing the Godown in the petitioner property comprised in S.Nos.127/1C, 127/1B, 127/2A

and 127/1A situated in 111, Alamathi I Revenue Village abutting Redhills-Thiruvallur High Road, Sholavaram Panchayat.

For Petitioner : Mr.R.Abdul Mubeen
For Respondents : Mr.R.Prathapkumar,
Addl.Govt.Pleader for R1, R3 and R4
Mr.K.Raja Shrinivas for R2

O R D E R

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

Heard Mr.R.Abdul Mubeen, learned counsel for the petitioner, Mr.R.Prathapkumar, learned Additional Government Pleader accepting notice for respondents 1, 3 and 4 and Mr.K.Raja Shrinivas, learned Standing counsel for the 2nd respondent.

2. The averments in the Writ Petition is as follows:-

The petitioner is the absolute owner of the property to an extent of 1 acre and 32.5 cents comprised in Survey Nos.127/1C, 127/1B, 127/2A and 127/1A situated in 111, Alamathi Village, Ponneri Taluk, Thiruvallur District and constructed a warehouse in the year 2011 but not obtained any formal approval of the plan from the Planning Authority. While so, the 2nd respondent issued notice dated 04.11.2015 calling upon the petitioner to stop work and again by notice dated 23.11.2015, called to restore the land in original condition as mentioned therein within 30 days failing which action will be taken for locking and sealing of the premises. As against the same, the petitioner preferred a statutory application under Section 80A of the Tamil Nadu Town and Country Planning Act along with stay petition.

3. The petitioner had applied for approval of the building plan by application dated 14.12.2015, however, the same was rejected by the 2nd respondent by the impugned order dated 06.05.2016 on setting out as many as 26 Development Regulation violations. Aggrieved by the said order dated 06.05.2016, the petitioner is before this court.

4. As against the same, admittedly, the petitioner is stated to have preferred a statutory appeal under Section 79 of the Tamil Nadu Town and Country Planning Act before the 1st respondent. Further, now, the grievance of the petitioner is that she has been served with de-occupation notice dated 02.08.2016 by the 2nd respondent.

5. It is seen that the petitioner had already approached this court by way of W.P.No.60 of 2016 challenging the locking and sealing and de-occupation notice dated 23.11.2015 and this court by order dated 06.01.2016 directed the 1st respondent to

consider the interlocutory application within a period of 2 weeks and the petitioner's main application within the statutory period prescribed under the provisions of law, on its own merits and in accordance with law. Further, this court granted status quo in respect of the property in question, for a period of two weeks.

6. The 1st respondent, on the 80-A appeal preferred by the petitioner, by proceedings dated 03.03.2016, stayed the locking and sealing and demolition notice till the disposal of the Planning Permission Application by CMDA. Thereafter, the 2nd respondent/CMDA, by the impugned order dated 06.05.2016, refused the Planning Permission Application of the petitioner dated 14.12.2015 on the ground of Development Regulation Violations by pointing out as many as 26 violations.

7. Since the application under Section 79 of the Act is pending before the 1st respondent as against the rejection of the Planning Permission dated 06.05.2016, the 1st respondent is directed to consider and pass appropriate orders on the said application dated 08.08.2016, within 3 months from the date of receipt of a copy of this order, after affording opportunity to the petitioner to raise all her contentions. Till a decision is taken by the 1st respondent in this regard, there shall be an order of status quo.

8. The Writ Petition is disposed of with the above direction. No costs. Consequently, connected WMP is closed.

nvsri

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The State of Tamil Nadu

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Housing and Urban Development Department
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Thiruvallur District

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Rep. By its Commissioner
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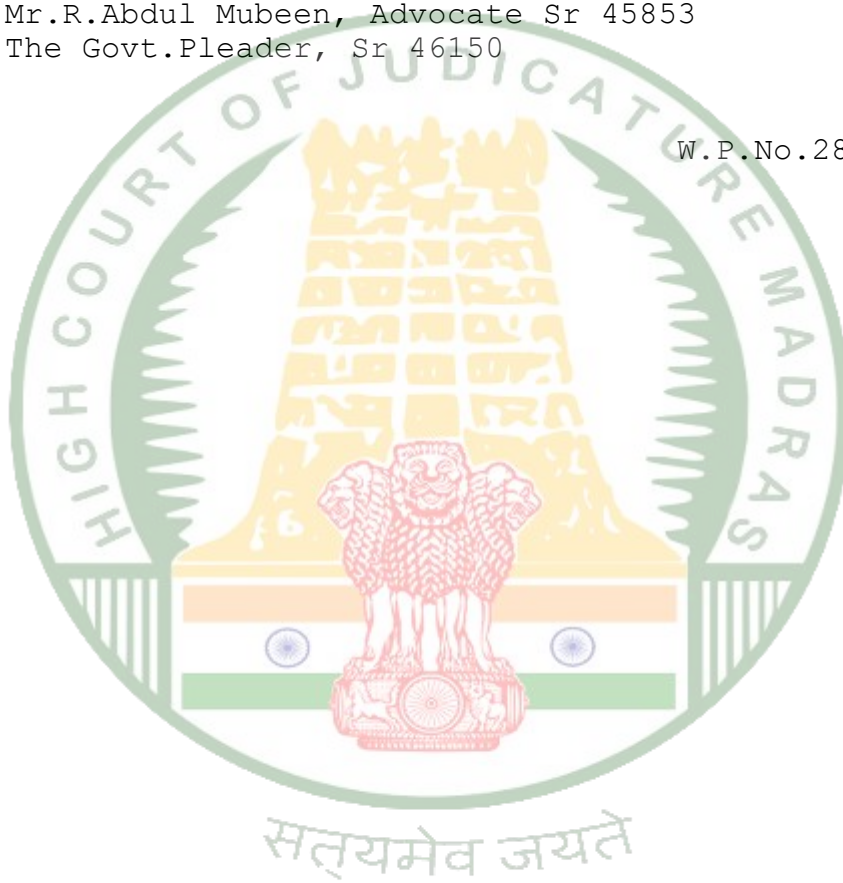
+ 1 cc to Mr.K.Raja Shrinivas, Advocate Sr 46416

+ 1 cc to Mr.R.Abdul Mubeen, Advocate Sr 45853

+ 1 cc to The Govt.Pleader, Sr 46150

KR/3/9/16

W.P.No.28097 of 2016



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