

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH  
and  
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Writ Petition No.33287 of 2016  
and  
W.M.P.No.28760 of 2016

Kanthimathi Baskar

... Petitioner

Vs.

1. Government of Tamil Nadu  
rep. by its Secretary to Government,  
Housing and Urban Development Department,  
Secretariat, Chennai- 600 009.
2. Corporation of Chennai  
rep. by its Commissioner,  
Rippon Building, Chennai- 600 003.
3. Greater Chennai Corporation,  
rep. by its Executive Engineer,  
Zone - V, Vepery,  
Chennai.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct respondents 2 and 3 to forbear them from in anyway interfering with the building put up at No.121/66, Perambur Barracks Road, Vepery, Chennai- 600 007, particularly by way of Locking & Sealing and/or Demolition of the same, pending final determination of the application under Section 80(A) and 80(A)(3) of the Tamil Nadu Town and Country Planning Act, dated 18.07.2016 by the first respondent.

For Petitioner : Mr.D.S.Rajasekaran

For R1 : Mr.K.Dhananjayan

For R2 & R3 : Mr.V.C.Selvasekaran

ORDER

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

Heard Mr.D.S.Rajasekaran, learned counsel for the petitioner and Mr.K.Dhananjayan, learned Special Government Pleader, who takes notice for the first respondent and Mr.V.C.Selvasekaran, learned counsel, who takes notice for respondents 2 and 3. With the consent of both the parties, this 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, directing respondents 2 and 3 to forbear them from in anyway interfering with the building put up at No.121/66, Perambur Barracks Road, Vepery, Chennai- 600 007, particularly by way of Locking & Sealing and/or Demolition of the same, pending final determination of the applications dated 18.07.2016 filed under Sections 80(A) and 80(A)(3) of the Tamil Nadu Town and Country Planning Act (hereinafter shortly referred to as 'Act'), by the first respondent.

3. The case of the petitioner is that she is the owner of the property bearing Door No.121/66, Perambur Barracks Road, Vepery, Chennai-600 007 by way of a partition deed dated 31.01.2005 bearing Document No.4322 of 2005 on the file of the Sub Registrar Office, Purasawakkam. The building constructed in the said property is more than 50 years old. Due to minor alteration in the building, the third respondent has issued a Lock & Seal and Demolition notice dated 13.06.2016, against which, the petitioner preferred an appeal under Section 80(A) along with stay application under Section 80(A)(3) of the Act before the first respondent on 18.07.2016. Pending the same, the third respondent has issued a notice dated 09.09.2016 to the occupant, calling upon him to discontinue the occupation of the premises in question within 15 days, so as to enable the authority to carry out the locking and sealing and demolition in due course under the provisions of the Act. On coming to know about the same, the petitioner has submitted a revised plan on 19.09.2016. However, the third respondent is threatening the petitioner with the lock and seal of the property. Therefore, the petitioner has no other alternative except to approach this Court with the present writ petition for the above stated relief.

4. Learned counsel for the petitioner submitted that the building in question has been constructed after obtaining the necessary permission from the authorities concerned and there was no unauthorised construction as alleged by the respondents. However, learned counsel submitted that as against the lock & seal and demolition notice dated 13.06.2016, the petitioner has already filed an appeal under Section 80-A and stay application

under Section 80-A(3) of the Act dated 18.07.2016 before the first respondent and it would be suffice, if a direction is issued to dispose of the same.

5. Learned Special Government Pleader for the first respondent submitted that the building constructed in the subject property is an unauthorized one and hence, notices have been issued to the petitioner and the occupant, as per law.

6. Irrespective of the submissions made on either side, without advertting to the merits of the case, this Court directs the first respondent to consider the appeal under Section 80-A and stay application under Section 80-A(3) of the Act dated 18.07.2016 preferred by the petitioner and pass necessary orders, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner, within a period of three months from the date of receipt of a copy of this order. Till such time, the respondents are directed not to take any coercive steps.

7. Accordingly, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,  
Housing and Urban Development Department,  
Fort St. George, Chennai- 600 009.
2. The Commissioner, Corporation of Chennai,  
Rippon Building, Chennai- 600 003.
3. The Executive Engineer,  
Greater Chennai Corporation, Zone -V,  
Vepery, Chennai.

+1cc to Mr.D.S.Rajasekaran, Advocate, S.R.No.53733

W.P.No.33287 of 2016

AD(CO)

CA(08/11/2016)