

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2017

CORAM

THE HON'BLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE
AND

THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.7017 of 2017

and

W.M.P.Nos.7646 & 7647 of 2017

Sharmila Devi

... Petitioner

Vs.

1.The Government of Tamil Nadu,
rep. by Secretary,
Housing and Urban Development Department,
Fort St. George,
Chennai - 600 006.

2.Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008. .. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus calling for the records pertaining to the impugned notice in Letter No. EC/C-I/ 17267/2012 dated 08.12.2016 in respect of the premises bearing 17/5-A, Haddows Lane, Nungambakkam, Chennai 600006, quash the same and consequently forbear the 2nd respondent and all persons claiming or acting under or through them from taking any action whatsoever including locking sealing of the premises bearing Door 17/5-A, Haddows Lane, Nungambakkam, Chennai 600 006.

For Petitioner : Mr.K.F.Manavalan

For Respondents : Mr.T.N.Rajagopalan
for 1st respondent

Mr.K.Rajasrinivas
for 2nd respondent

ORDER

(Order of the Court was made by the Acting Chief Justice)

Mr.T.N.Rajagopalan, learned Special Government Pleader takes notice for the first respondent. Mr.K.Rajasrinivas, learned counsel takes notice for the second respondent.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

3. The petitioner has filed this writ petition seeking to quash the de-occupation notice dated 08.12.2016 issued by the second respondent and consequently direct the second respondent from taking any action including locking and sealing of the premises bearing Door No.17/5-A, Haddows Lane, Nungambakkam, Chennai-6.

4. It is the case of the petitioner that she is the owner of the property and after obtaining plan sanction, she had put up construction. However, she received notice through her tenant on 08.12.2016 alleging that there are violations in the approved plan. It is the further case of the petitioner that the violations alleged are minor and negligible and are to be condoned. On 20.2.2017, the petitioner sent a representation seeking to consider the same as application under Section 113C of the Tamil Nadu Town and Country Planning Act, 1971, which is still pending.

5. The learned counsel for the petitioner submitted that the infractions, if any, being minor and without any increase in the floor area. The same are liable to be condoned under Section 113-C of the Act. In this regard, the petitioner has sent a representation on 20.02.2017, which is pending consideration.

6. The learned counsel for the respondents submit that as against the impugned notice, only special revision would lie and without doing so, the petitioner has sent a representation on 20.02.2017.

7. Any order passed under Section 56 (2), sub-clause (iii) and 2(A) of the Act or otherwise when steps are being initiated against the petitioner for the alleged violations, the remedy is to file a special revision under Section 80-A of the Act.

8. Faced with the situation, the learned counsel for the petitioner seeks time to file a special revision petition within a period of fifteen days.

9. In view of the above said submission, we direct the petitioner to file special revision petition under Section 80-A of the Act before the first respondent within a period of fifteen days from today and thereafter, it is for the first respondent to consider the special revision petition and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of hearing to the petitioner within a period of three months. Till then, no coercive steps shall be taken by the respondent authorities.

10. The writ petition is disposed of accordingly. No costs. Consequently, W.M.P.Nos.7646 & 7647 of 2017 are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To:

- 1.The Secretary,
Housing and Urban Development Department,
Fort St. George,
Chennai - 600 006.
- 2.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

+1cc to Mr.K. Raja Shrinivas, Advocate Sr. 18196
+1cc to Mr.K.F. Manavalan, Advocate Sr. 18158

W.P.No.7017 of 2017

SKV(CO)
VR(24/03/2017)