

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2017

CORAM

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

THE HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.No.4251 of 2017

1. A.Ragu
2. R.Devika

.. Petitioners

Vs.

1. The Secretary to Government
Government of Tamilnadu
Housing & Urban Development Department
Secretariat, Chennai- 600 009.
2. Chennai Metropolitan Development Authority
Rep. by its Member Secretary
No.1, Gandhi Irwin Road, Egmore
Chennai- 600 008.
3. Corporation of Chennai
Rep. by Executive Engineer
Zone V, Division 54
No.61, Basin Bridge Road
Chennai.

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of Mandamus directing the 2nd and 3rd respondents to forbear them from in anyway interfering with the building at No.35(40), Chakkarai Street, Kondithoppu, Chennai 600 079 particularly by way of Locking and Sealing and or demolition of the same pending final determination of petitioner's application for review dated 6.2.2017 filed under Section 81(1) and 81(4) of the Town and Country Planning Act, 1971 by the 1st respondent.

For Petitioners : Mr.L.Chandrakumar

For Respondents

: Mr.T.N.Rajagopalan
Spl. Government Pleader
for 1st respondent

Mr.Raja Srinivas
for 2nd respondent

Mr.A.Nagarajan
for 3rd respondent

ORDER

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

The petitioners have filed this writ petition seeking issuance of a writ of Mandamus to forbear respondents 2 and 3 from in anyway interfering with the building at No.35(40), Chakkarai Street, Kondithoppu, Chennai - 600 079, particularly by way of Locking and Sealing and or demolition of the same pending final determination of petitioner's application for review dated 6.2.2017 filed under Section 81(1) and 81(4) of the Town and Country Planning Act, 1971 by the 1st respondent.

2. The predecessor in title of the petitioners was served with a lock and seal notice on 27.5.2016. The petitioners herein challenged the said notice by filing an appeal under Section 80(A) of the Tamil Nadu Town and Country Planning Act, 1971. As the said appeal was not considered by the respondent/authorities, the petitioner filed W.P.No.22673 of 2016, wherein this Court, by order dated 30.6.2016, direct the first respondent to dispose of the appeal within two months and directed the respondents to maintain status quo till such time.

3. The first respondent, by order dated 10.1.2017, rejected the appeal filed by the petitioners. Assailing the same, the petitioners filed a review application before the first respondent and the same is pending till date. Apprehending that the second respondent may lock and seal the entire building, the present writ petition is filed for the relief stated supra.

4. Heard the learned counsel for the parties.

5. It is seen from the records that the predecessor in title of the petitioners filed writ petition and in the contempt filed by the CMDA expressing their inability to re-seal the property, this Court, by order dated 8.2.2017 made in Contempt Petition No.1958 of 2015, directed the CMDA to ensure that the premises is re-sealed with the assistance of the police force at the earliest.

6. Even though the petitioners are subsequent purchasers and are innocent, they are liable to maintain the building as per the sanctioned building plan and it is left to him to do the needful for removing the unauthorized structure. We grant the petitioners two months' time for removing the unauthorized structure on their own, failing which the CMDA is at liberty to take suitable action in accordance with law.

The writ petition is disposed of accordingly. No costs. Consequently, W.M.P.No.4403 of 2017 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government
Government of Tamilnadu
Housing & Urban Development Department
Secretariat, Chennai- 600 009.
2. The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road, Egmore
Chennai- 600 008.
3. The Executive Engineer
Corporation of Chennai
Zone V, Division 54
No.61, Basin Bridge Road
Chennai.

+1cc to Mr.Raja Srinivas, Advocate, S.R.No.10973
+1cc to Mr.Nagarajan, Advocate, S.R.No.10564
+1cc to Mr.Chandra Kumar, Advocate, S.R.No.10541
+1cc to the Government Pleader, S.R.No.10722

UG(CO)
RS(01/03/2017)

W.P.No.4251 of 2017