

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2017

CORAM

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

AND

THE HON'BLE MR. JUSTICE RMT. TEEKAA RAMAN

W.P.No.6988 of 2017

S.Kamalabai

.. Petitioner

Vs.

- 1 The State of Tamil Nadu
rep. by Secretary
Housing and Urban Development Department
Fort St. George, Chennai-9.
- 2 The Executive Engineer
Greater Chennai Corporation, Zone-XII
Division 104, Anna Nagar, Chennai. .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus forbearing respondents 1 and 2 from in any manner initiating any coercive action of locking, sealing and demolition of the petitioner's premises at No.194, Vellala Street, Purasawakkam, Chennai-600084 under the Tamil Nadu Town and Country Planning Act till the disposal of the petitioner's Appeal under Section 80A of the Tamilnadu country planning dated 14.02.2017 pending on the file of the first respondent.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Ms.Vasudha Thiagarajan
Addl. Government Pleader
for 1st respondent

Mr.R.Arunmozhi
for 2nd respondent

ORDER

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

Ms.Vasudha Thiagarajan, learned Additional Government Pleader takes notice for the first respondent and Mr.R.Arunmozhi, learned counsel takes notice for the second respondent.

2. The petitioner has filed this writ petition seeking issuance of a writ of Mandamus forbearing respondents 1 and 2 from in any manner initiating any coercive action of locking, sealing and demolition of the petitioner's premises at No.194, Vellala Street, Purasawakkam, Chennai-600084 under the Tamil Nadu Town and Country Planning Act till the disposal of the petitioner's Appeal under Section 80A of the Act dated 14.02.2017 pending on the file of the first respondent.

3. The petitioner claims to be the owner of the property. A lock and seal and demolition notice was issued on 5.11.2014 alleging deviations/unauthorized construction. Thereafter, a de-occupation notice was issued on 19.12.2014. Consequent to the order passed by this Court in W.P.No.16256 of 2015, the premises was de-sealed to enable the petitioner to rectify the deviation. The petitioner claims to have rectified deviation to an extent of 411.46 Sq.Mtrs. and pleads that if the balance deviation of 235.38 Sq. Mtrs. is demolished, the entire structure of the building will collapse. The petitioner preferred a appeal under Section 80A of the Act on 14.2.2017 along with a petition for stay and the same is pending consideration before the first respondent. Apprehending that the respondent authorities would take coercive action pending disposal of the appeal, the present writ petition is filed.

4. Considering the facts and circumstances of the case, we direct the first respondent to consider the appeal filed by the petitioner on 14.2.2017 and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of hearing to the petitioner within three months from the date of receipt of a copy of this order. Till the disposal of the appeal no coercive steps shall be taken by the respondent authorities. All the contentions raised in this writ petition are left open to be urged by the petitioner before the appellate authority.

The writ petition is disposed of accordingly. No costs. Consequently, W.M.P.No.7606 of 2017 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sasi

To

1 The Secretary
State of Tamil Nadu
Housing and Urban Development Department
Fort St. George, Chennai-9.

2 The Executive Engineer
Greater Chennai Corporation, Zone-XII
Division 104, Anna Nagar, Chennai.

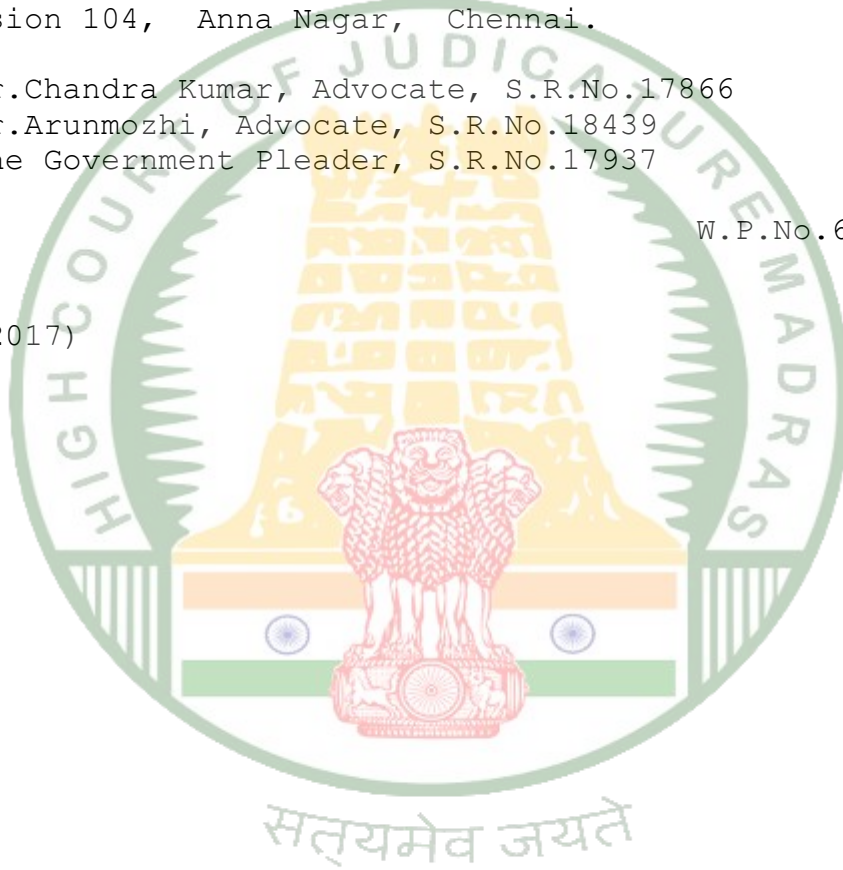
+1cc to Mr.Chandra Kumar, Advocate, S.R.No.17866

+1cc to Mr.Arunmozhi, Advocate, S.R.No.18439

+1cc to the Government Pleader, S.R.No.17937

W.P.No.6988 of 2017

RSK(CO)
RS(07/04/2017)



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