

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:15.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE SATRUGHANA PUJAHARI

WP No.32713/2017 & WMP.No.36030/2017

Mrs.Saisri Ragunath

..

Petitioner

Vs

1.The Member Secretary
Chennai Metropolitan Development
Authority, No.8, Gandhi Irwin Road
Chennai 600 008.

2.The Commissioner
Greater Chennai Corporation
Zone XIII, Adyar, Chennai - 20.

3.The Managing Director
The Tamil Nadu Housing Board
No.493, Anna Salai,
Nandanam, Chennai 600 035.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus calling for the records of the 2nd respondent culminating in his impugned order No.DIV.181/013/2017 dated 22.11.2017, quash the same and direct teh 2nd respondent not to proceed on the basis of the impugned order dated 22.11.2017 without providing the petitioner the details requested by them in their representation dated 23.11.2017 and giving them an opportunity of being heard.

For petitioner : Mr.N.L.Raja, Senior counsel for
Mr.E.Jayasankar

For R1 : Mr.A.Kumar

For R2 : Mr.K.Soundararajan

For R3 : Mr.V.Anandamoorthy

ORDER

[Order of the Court was delivered by M.SATHYANARAYANAN, J.]

By consent, the writ petition is taken up for final disposal. Mr.A.Kumar, learned Standing Counsel accepts notice on behalf of the 1st respondent ; Mr.K.Soundararajan, learned Standing counsel accepts notice on behalf of the 2nd respondent and Mr.V.Anandamoorthy, learned Standing counsel accepts notice on behalf of the 3rd respondent.

2 The petitioner's father claims to have purchased the Flat in the first floor of the building in Block No.T-23 erected on the land in Survey No.154 [part], Tiruvanmiyur at Besant Nagar, admeasuring to an extent of 1406 sq.ft., along with the undivided interest in respect of 2.5 Grounds as there is no division of the land by metes and bounds. It is the specific case of the petitioner that after allotment, he has maintained the said flat as per the original condition and did not make any alteration or addition thereto. The petitioner would aver that in the year 2007, the owner of the ground floor of the Flat started putting up an unauthorised construction and converted the ground floor into a commercial enterprise and in this regard, the petitioner has also filed WP.No.14020/2007 to take appropriate action to demolish the additional construction and the writ petition is still pending. The petitioner would further aver that his father died on 30.08.2016 leaving behind his wife Mrs.Soundaravalli Rajagopalan ; Mrs.Vidya Rajagopalan, who is presently residing at the United States of America and the petitioner as his surviving legal heirs. Since the father of the petitioner died, the petitioner filed a Substitution Petition in WMP.NO.35411/2017 in WP.No.14020/2007 and it was ordered today by this Court. The petitioner would further aver that to her shock and surprise, she was served with the notice dated 13.11.2017 calling upon the petitioner to furnish the planning permission followed by the impugned notice dated 22.11.2017 issued u/s.56 and 57 read with 85 of the Tamil Nadu Town and Country Planning Act, 1971, for Locking and Sealing and Demolition. In the said notice, it is stated that the first floor is in occupation of the petitioner and there is an unauthorised construction to an extent of 94.40 sq.m. and it is classified as a residential one. The petitioner, in this regard has also submitted a representation dated 23.11.2017 to the 2nd respondent, praying for the details / reasons as to how the said official has reached the conclusion that there is an unauthorised construction in the first floor of the said Flat and however, she is yet to be favoured with any kind of response and in the interregnum, steps are being taken to lock and seal the said premises and hence, the petitioner came forward to file

the present writ petition.

3 Mr.N.L.Raja, learned Senior Counsel assisted by Mr.E.Jayasankar, learned counsel appearing for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that the father of the petitioner had purchased the flat in question and after purchase, he did not put up any additional construction or alterations and even after his demise, the said flat continues to remain so and it is not clear as to how the 2nd respondent has reached the conclusion that in the said premises, there is an unauthorised construction admeasuring to an extent of 94.40 sq.m. and would further add that despite the fact that owner of the ground floor of the premises has put up an additional construction and also converted the user, no action has been taken by the officials of the Corporation of Chennai and in this regard, WP.No.14020/2007 is also pending and hence, prays for interference.

4 The Court heard the submissions of Mr.A.Kumar, learned standing counsel appearing for the 1st respondent ; Mr.K.Soundararajan, learned standing counsel appearing for the 2nd respondent ; and Mr.V.Ananadamoorthy, learned standing counsel appearing for the 3rd respondent and perused the materials placed before it.

5 A perusal of the materials placed before this Court coupled with the specific stand of the petitioner in paragraph No.4 of the affidavit would indicate that the flat purchased by the father of the petitioner is kept as it is with no additional construction or alterations. It is seen that the petitioner, on receipt of the impugned notice, has submitted a representation on the very next day, i.e., on 23.11.2017.

6 In the light of the above facts and circumstances, this Court directs the 2nd respondent to respond to the said representation dated 23.11.2017 submitted by the petitioner and in this regard, shall also take into consideration the registered Sale Deed dated 03.03.1989 executed by the 3rd respondent in favour of the petitioner's father and in coordination with the 3rd respondent and after putting the petitioner on notice and after affording an opportunity of personal hearing, shall dispose of the said representation on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to the 3rd respondent herein and till such time, the 2nd respondent shall defer further decision in terms of the impugned notice dated 22.11.2017.

7 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True copy//

Sub Assistant Registrar

AP

To

1.The Member Secretary
Chennai Metropolitan Development
Authority, No.8, Gandhi Irwin Road
Chennai 600 008.

2.The Commissioner
Greater Chennai Corporation
Zone XIII, Adyar, Chennai - 20.

3.The Managing Director
The Tamil Nadu Housing Board
No.493, Anna Salai,
Nandanam, Chennai 600 035.

+1cc to Mr.E.Jaya Sankar, Advocate SR.No.90028
+1cc to Mr.V.Anandhamurthy, Advocate SR.No.89829
+1cc to Mr.K.Sundarajan, Advocate SR.No.89655
+1cc to Mr.A.Kumar, Advocate SR.No.89751

WP No.32713/2017

CNR(CO)
GN(11/01/2018)

WEB COPY