

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.05.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

AND

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.14256 of 2017

& W.M.P.Nos.13230 & 13231 of 2017

1.T.Ashok Kumar

2.J.Rajadurai

3.S.Karthikeyan

.. Petitioners

Vs

1.The Secretary to Government
Housing and Urban Development
Department, Secretariat,
Chennai - 600 009.

2.Chennai Metropolitan Development Authority,
Rep.by its Member-Secretary
Thalamuthu Natarajan Building,
Egmore, Chennai - 600 008.

3.Greater Chennai Corporation
Rep.by its Executive Engineer, Zone-3,
Zonal Officer - 3, Madhavaram
Chennai - 600 060.

4.M.Vanitharani
(GPOA of Vendor).

5.S.Ramesh
Sole Proprietor of M/s. R.M.S. Builders.

..Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records culminated in the

impugned De-occupation Notice in ref. (1) Notice No.4/2017, (2) Notice No.5/2017 and (3) Notice No.6/2017, all dated 17.04.2017, on the file of third respondent, and quash the same and consequently forbear the respondents 1 to 3 or anyone claiming or deriving through them from evicting or vacating or de-occupying the petitioners from the premises bearing at Flat No.201/1, 2nd Floor, Flat No.102/1, 1st Floor, Flat No.202/1, 2nd Floor, situated at RMS Homes, Temple View Apartments, Plot No.41, Santhosh Nagar, 5th Street, Puthagaram, Kolathur, Chennai - 600 099.

For Petitioner : Dr.S.R.Sundaram

For RR1 : Mr.R.Vijayakumar, AGP

RR2 : Mr.C.Johnson, Standing Counsel

RR3 : Mr.V.C.Selvasekaran, Standing Counsel

ORDER

(The Order of the Court was made by S.M.SUBRAMANIAM,J)

This petition has been filed to call for the records culminated from the impugned De-occupation Notice in ref. (1) Notice No.4/2017, (2) Notice No.5/2017 and (3) Notice No.6/2017, all dated 17.04.2017, on the file of third respondent, and quash the same and consequently forbear the respondents 1 to 3 or anyone claiming or deriving through them from evicting or vacating or de-occupying the petitioners from the premises bearing at Flat No.201/1, 2nd Floor, Flat No.102/1, 1st Floor, Flat No.202/1, 2nd Floor, situated at RMS Homes, Temple View Apartments, Plot No.41, Santhosh Nagar, 5th Street, Puthagaram, Kolathur, Chennai - 600 099.

2. By consent of the learned Counsel appearing for both sides, the Writ Petition is taken up for final disposal at the admission stage itself.

3. Though larger relief has been sought for in this Writ Petition challenging the de-occupation notice issued by the 3rd respondent in proceedings dated 17.04.2017, learned counsel appearing for both the petitioners as well as the first respondent agreed to restrict the prayer to the extent of disposing of the appeal, which is pending before the first respondent-Government.

4. Since the learned counsel for the petitioners agreed to confine his prayer, this Court is inclined to direct the first respondent to consider the appeal filed by the Writ Petitioners on 27.03.2017 and the said appeal is directed to be disposed by the first respondent on merits and in accordance with law, by providing opportunities to the parties concerned.

5. However, the learned counsel appearing for the 3rd respondent fairly conceded that the violation contemplated in the de-occupation notice is very meagre and there is no major violations in this case. Recording this fact, it is suffice to direct the first respondent to consider the said appeal filed by the Writ Petitioners on 27.03.2017 and pass appropriate orders, after providing

opportunities to the parties concerned, in accordance with law and on merits, within a period of eight weeks from the date of receipt of a copy of this order. Till the final order is passed in the appeal, no coercive action shall be taken in respect of the premises, which is in occupation of the Writ Petitioners.

6. With the above observations and direction, the Writ Petition stands disposed of. No costs. Consequently, the connected W.M.Ps. are closed

(MKKSJ) (SMSJ)
10.05.2017

Index: Yes/No
Internet:Yes/No

Office to Note: Issue Order copy by 12.05.2017
pvs

Copy to

- 1.The Secretary to Government
Housing and Urban Development
Department, Secretariat,
Chennai - 600 009.
- 2.Member-Secretary
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
Egmore, Chennai - 600 008.
- 3.Executive Engineer, Zone-3,
Greater Chennai Corporation
Zonal Officer - 3, Madhavaram
Chennai - 600 060.

K.KALYANASUNDARAM, J

and

S.M.SUBRAMANIAM, J

pvs

W.P.No.14256 of 2017

& W.M.P.Nos.13230 & 13231 of 2017

10.05.2017