

In the High Court of Judicature at Madras

Dated : 02.08.2017

Coram

The Honourable Mr. Justice R. SUBBIAH
and
The Hon'ble Mr. Justice A.D. JAGADISH CHANDIRA

W.P No.19864 of 2017
and
WMP Nos.21441 and 21442 of 2017

1. R. Seethalakshmi
2. S. Ramesh

.... Petitioners

..vs..

1. Chennai Metropolitan Development Authority,
rep by its Member-Secretary,
No.1, Gandhi-Irwin Road,
Egmore, Chennai - 8
2. Government of Tamil Nadu,
rep by its Secretary to Government
Housing and Urban Development Department,
Fort St. George, Chennai - 9

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Mandamus forbearing the respondents 1 and 2 from initiating any coercive action of locking and sealing and demolition action with regard to the building put up at Old NO.56/1, New No.62, Brindavan Street, West Mambalam, Chennai - 600 033 pending determination of Section 80-A Revision Petition dated 07.04.2017 with the Government.

For petitioners : Mr.R. Mohan
For R.1 : Mr.N. Sampath
For R.2 : Mr.A.N. Thambidurai
Spl.G.P

ORDER

(Judgment of the Court was delivered by R. SUBBIAH, J.,)

The petitioners have filed the present writ petitions seeking for an issuance of a Writ of Mandamus forbearing the respondents 1 and 2 from initiating any coercive action of

locking and sealing and demolition action with regard to the building put up at Old NO.56/1, New No.62, Brindavan Street, West Mambalam, Chennai - 600 033 pending determination of Section 80-A Revision Petition dated 07.04.2017 with the Government.

2. Mr.N. Sampath, learned counsel for the 1st respondent and Mr.A.N. Thambidurai, learned Special Government Pleader takes notice for the 2nd respondent.

3. In the affidavit, filed in support of the petitioners, it is stated that the property situated at Old No.56/1, New No.62, Brindavan Street, West Mambalam, Chennai-33 is owned by the petitioners. The petitioners applied for planning permission for construction of stilt + 3 floors in the said property. The Chennai Metropolitan Development Authority (CMDA), in planning permission No.6944 vide file No.BC1/17982/2010 dated 24.01.2012, accorded planning permission for the constructions. The petitioners had completed the entire constructions as early as 2012 and put the building into use without any major deviations and violations for their garments tailoring unit and to accommodate the persons employed thereon. It is also stated that there are no major deviations in the said constructions except a small A.C. Sheet in the terrace of the building, where the petitioners dump their waste materials and stocks. Now, after five years of constructions, the first respondent issued a locking and sealing and demolition notice dated 21.02.2017 under Se.56 of the Town and Country Planning Act. Aggrieved over the same, the petitioners have preferred Special Revision Petition along with stay petition under sec.80 (A) of the Town and Country Planning Act dated 07.04.2017 and the same is pending. In the meantime, the petitioners have also taken steps to regularise the deviations by submitting Sec.49 application, which is pending in an appeal with the Government. Apprehending that the respondents may take coercive action pending disposal of the revision, the present writ petition is filed.

4. Considering the facts and circumstances of the case, we direct the second respondent to consider the revision filed by the petitioners on 07.04.2017 and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of hearing to the petitioners within three months from the date of receipt of a copy of this order. Till this 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 petitioners before the appellate authority.

5. The writ petition is disposed of accordingly. No costs. Consequently, connected WMPs are closed.

s/d-
Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

sr

To

1. Chennai Metropolitan Development Authority,
rep by its Member-Secretary,
No.1, Gandhi-Irwin Road,
Egmore, Chennai - 8
2. The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George, Chennai - 9

+1 CC to Ms. N. Sampath, Advocate sr 55146
+1 CC to Ms.R. Mohan, Advocate sr 55286.
+1 CC to Govt. Pleader sr 56285.

W.P.No.19864/2017

SR(CO)
sp(29/08/2017)

सत्यमेव जयते

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