

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2017

CORAM

THE HONOURABLE Mr.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.2642 of 2007
and M.P.Nos.1 to 3 of 2007

1.Kamalash Kumari
2.Suchita Ganabathya
3.Janarthanan .. Petitioner

Vs.

1.The Government of Tamil Nadu
Represented by its Secretary,
Housing and Urban Development Department,
Chennai - 600 009.

2.The Chennai Metropolitan Development Authority,
Represented by its Member Secretary,
Thaalamuthu Natarajan Maaligai,
Chennai - 600 008.

3.S.Elumalai

4.Anmol Shrusti Contractors and
Engineers Private Limited,
Represented by its Managing Director
Alok Kumar (Building Contractor)
102, Lattice Bridge Road,
Adayar, Chennai - 600 020. .. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorarified Mandamus calling for the records of the respondents relating to the orders of the second respondent in Notice No.EC/SD/169007/02/02119 dated 25.07.2002 followed by letter No.ES2/23568/06 dated 05.12.2006 and quash the same and direct the respondents to forthwith refer the properties of the petitioners herein viz., Pent House Flat Nos.B3, A3 and C3 respectively in second and third floors at Door No.20, Ranjith Road, Kotturpuram, Chennai- 600 085 to the monitoring committee constituted as per the directions of the order of the Honourable First Division Bench of this Court dated 23.08.2006 made in the batch of Writ Petitions in W.P.No.18898 of 2000 etc., for deciding as to whether demolition is warranted in this case or

payment of compensation by the 1st respondent is warranted as per the judgment of the Honourable Supreme Court of India in Manju Bhatia Vs. New Delhi Municipal Council reported in AIR 1998 SC 223.

For Petitioners : Mr.Kandavadivel Doraisami

For Respondents : Mr.R.Vijayakumar
Addl. Government Pleader [for R1]
Mr.N.Sampath for R2
Mr.R.Mohan for R3
R4 - No appearance

O R D E R

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

The petitioners, challenge the impugned notice dated 05.12.2006 issued by the second respondent under Section-56(2) Sub-Clause (iii) of Town and Country Planning Act 1971 (Tamil Nadu Act 35 of 1972 as amended in Planning Act-22 of 1974), calling upon them to discontinue the occupation of premises within ten days for taking necessary action to comply with the order dated 15.09.2006 in W.P.No.35328 of 2002. In support of their claim, the petitioners have relied on the judgement of this Court in Consumer Action Group & Another Vs. State of Tamil Nadu and Another reported in [2006 (4) CTC 483 (DB)].

2. Mr.Kandavadivel Doraisami, learned counsel appearing for the petitioners has invited the attention of this Court to paragraph No.4 of the counter affidavit of the second respondent and would submit that in the light of the stand taken, the petitioner are entitled to avail the benefits under Section 113-C of the Town and Country Planning Act, 1971 read with G.O.Ms.No.110 & 111 Housing and Urban Development [UD4(3)] Department, dated 22.06.2017, and they intend to apply for the same, and hence, seeks the permission of this Court to withdraw this writ petition to pursue the said remedy and has also made an endorsement to that effect.

3. The learned counsel appearing for the second respondent would submit that if the offending construction has been put up prior to 01.07.2007, the petitioners are eligible to the said exemption as per the guidelines under Section 113-C of the Town and Country Planning Act, 1971, subject to the Rules framed thereunder and in view of the above cited G.O.

4. In the light of the endorsement made, the writ petition is dismissed as withdrawn, and if the petitioners are so advised and if it is open to them under law, they are at liberty to avail the remedy under Section under Section 113-C of the Town and Country Planning Act, 1971 read with G.O.Ms.No. 110

& 111 Housing and Urban Development [UD4(3)] Department,
dated 22.06.2017. No costs. Consequently, connected
miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To:

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

2.The Member Secretary,
The Chennai Metropolitan Development Authority,
Thaalamuthu Natarajan Maaligai,
Chennai - 600 008.

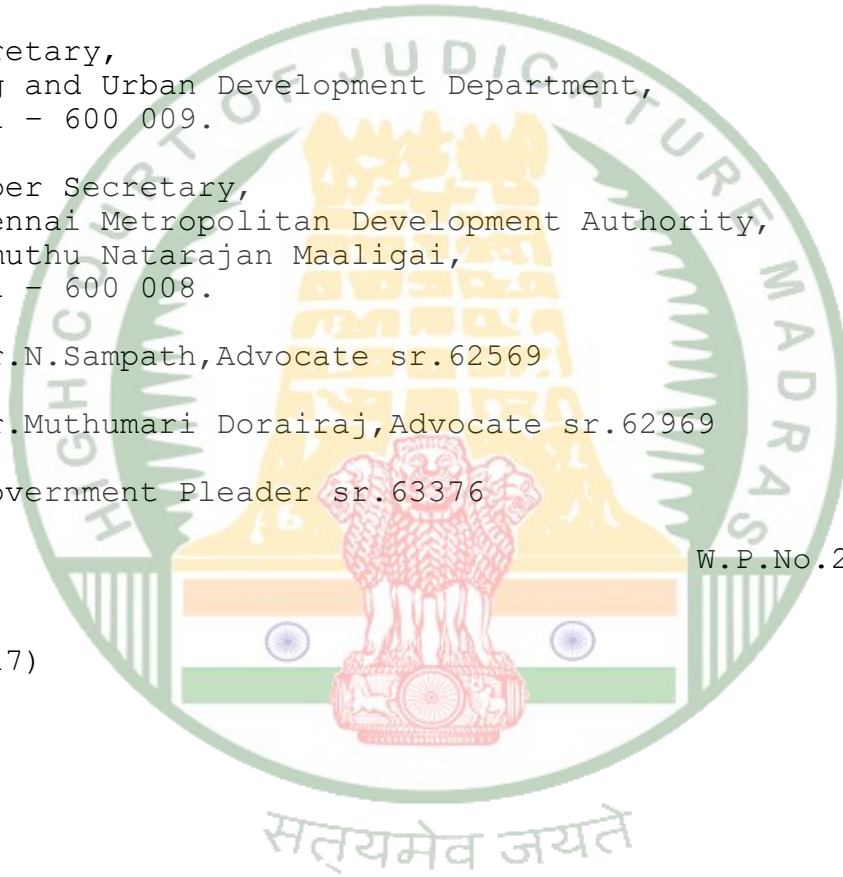
+1cc to Mr.N.Sampath,Advocate sr.62569

+1cc to Mr.Muthumari Dorairaj,Advocate sr.62969

+1cc to government Pleader sr.63376

W.P.No.2642 of 2007

gjII(co)
ss(6/9/2017)



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