

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.04.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WP.No.8050/2018 & WMP.No.10034/2018

C.Amsaveni

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Petitioner

Versus

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

2.The Executive Engineer
Greater Chennai Corporation
Zone-V, Kondithoppu, Chennai.

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Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus forbearing the respondents 1 and 2 from in any manner initiating any coercive action of locking, sealing and demolishing petitioner's premises at No.24 [70], Krishnappa Tank Street, George Town, Kondithoppu, Chennai 600 079, under Town and Country Planning Act Act, for a period of three months so as to enable the petitioner either rectify or submit a fresh planning permission as per Rules.

For Petitioner : Mr.L.Chandrakumar
For R1 : Mr.T.M.Pappiah, Spl.GP
For R2 : Mr.K.Soundararajan

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.T.M.Pappiah, learned Special Government Pleader accepts notice on behalf of the 1st respondent and Mr.K.Soundararajan, learned Standing Counsel accepts notice on behalf of the 2nd respondent.

2 The petitioner claims to be the owner of the property

bearing Door No.24, Old Door No.70, Krishnappa Tank Street, Kondithoppu, George Town, Chennai 600 079, admeasuring to an extent of 1989 sq.ft., and it was purchased by her through a registered Sale Deed bearing Doc.No.146 dated 04.02.2015. It is averred by the petitioner that after obtaining Planning Permission, she constructed Ground and First Floors and it is also subjected to statutory levies. Subsequently, she had put up additional construction in the form of second and third floors and it was also subjected to statutory levies. The petitioner would also aver that somebody enmical to her, has sent a representation as if she had put up an unauthorised construction and therefore, the 2nd respondent has issued the De-Occupation Notice dated 08.08.2017 in letter No.05/043497/2017. The petitioner, challenging the legality of the same, filed an appeal dated 11.09.2017 along with a petition for stay and however, neither the petition for stay nor the main appeal is yet to be taken up for hearing and apprehending dispossession and demolition, the petitioner came forward to file the present writ petition.

3 The learned counsel for the petitioner has drawn the attention of this Court to the photographs and would submit that already the Ground Floor has been sealed and rest of the floors are purely used for residential purposes and in the event of De-Occupation Notice being implemented and premises are demolished, the occupants will be put to grave hardship and difficulty and prays for appropriate orders, directing the 1st respondent to dispose of the appeal/special revision at an early date.

4 The Court heard the submissions of Mr.T.M.Pappiah, learned Special Government Pleader appearing for 1st respondent and Mr.K.Soundararajan, learned Standing Counsel appearing for the 2nd respondent and also perused the materials placed before it.

5 Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the 1st respondent or the delegated official to entertain the appeal/special revision filed by the petitioner u/s.80-A of the Tamil Nadu Town and Country Planning Act, 1971, if the papers are otherwise in order and shall take up the petition for stay at the first instance and give a disposal in accordance with law within a period of four weeks from the date of receipt of a copy of this order and till such time, shall defer further decision as to the demolition of the superstructure. The 1st respondent / delegated official, is also at liberty to take up the main appeal/special revision and give a disposal on merits and in accordance with law within a period of ten weeks from the date of entertainment of the appeal/special revision.

6 Since the ground floor is already under Lock and Seal, it shall continue to remain so till the disposal of the appeal/special revision. It is also made clear that till the disposal of the appeal/special revision by the 1st respondent / delegated official, the petitioner shall not create any third party rights in respect of the site and superstructure in question and shall not alter the physical features also.

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

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

AP

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-V, Kondithoppu, Chennai.

+1 cc to Govt Pleader sr 27232
+1 cc to M/s.K.Soundararajan Advocate sr 26380
+1 cc to M/s.L.Chandrakumar Advocate sr 26514

WP.No.8050/2018

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