

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.08.2018

Coram:

THE HON'BLE MR.JUSTICE M.VENUGOPAL
AND
THE HON'BLE MRS.JUSTICE S.RAMATHILAGAM

W.P.No.21545 of 2018
and
W.M.P.No.25298 of 2018

1.N.Narayana Moorthy
2.N.Jayanthi Petitioners

vs.

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

2.The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai-08

3.The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai-600 003

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the first respondent to dispose of the Review in G.O.(3D) No.12, by Housing and Urban Development (UD-VI(1)) dated 25.04.2018 within a time frame filed under Section 81 of the Tamil Nadu Town and Country Planning Act and to direct the Third Respondent not to take any coercive step of locking and sealing of the premises at Plot No.3, 3-A, 4 and 5, Perumal Koil Street, Nerkundram, Chennai-600 107, pending consideration of the Review, dated 12.05.2018.

For Petitioners : Mr.Raja Srinivas for
M/s.S.Santahan

For Respondents : Mr.J.Pothiraj, Spl.G.P.
For R1
Mr.Karthick Rayan for R2
Mr.A.Nagarajan for R3

ORDER

(Order of the Court was made by M.VENUGOPAL, J.)

Heard both sides.

2.No counter is filed on behalf of the Respondents.

3.According to the Petitioners, once the 'Fees' for Regularisation was received by the Second Respondent/The Member Secretary, Chennai Metropolitan Development Authority, he ought not to have rejected the Application of the Petitioner on the ground of 'acquiescence' and he is estopped from denying permission to the Petitioners. Further, their building was constructed prior to 28.02.1999. Moreover, the First Respondent had failed to pass a reasoned Order in respect of the credible evidence produced by the Petitioners to establish that the Building was constructed well before 28.02.1999. As on date, he has filed a 'Review Petition' against the 'Order of Rejection', which is pending for final adjudication before the First Respondent/Government of Tamil Nadu, represented by the Secretary, Housing and Urban Development Authority, Chennai-9. In fact, the Petitioners were called upon by the First Respondent for an enquiry; however, the Third Respondent/The Commissioner, Greater Chennai Corporation, Chennai-3, without considering the vital aspects, is taking hectic steps to 'Lock and Seal' the Building and to that effect, the 3rd Respondents' Officials had caused an inspection of the premises and had threatened the inmates and others to vacate from the building on Monday.

4.At this stage, the Learned Counsel for the Petitioners contends that in view of the fact that the 'Appeal' preferred by the Petitioners was rejected, as per G.O.(3D). No.12, Housing and Urban Development (UD-VI(1)) dated 25.04.2018, the 3rd Respondent/Greater Chennai Corporation is now taking steps to 'Lock and Seal' the premises. Therefore, it is

just and necessary to pass an order of interim direction directing the 3rd Respondent/The Commissioner, Greater Chennai Corporation, Chennai, not to 'Lock and Seal' the premises at Plot No.3, 3-A, 4 and 5, Perumal Koil Street, Nerkundram, Chennai-107, pending disposal of the Writ Petition.

5.The substance of the stand of the Petitioners is that they want their 'Review Petition' to be disposed of by the First Respondent, within time frame to be determined by this Court and further the 3rd Respondent/The Commissioner, Greater Chennai Corporation, Chennai, shall be directed not to take any coercive step of 'Locking and Sealing' the premises at Plot No.3, 3-A, 4 and 5, Perumal Koil Street, Nerkundram, Chennai-107, pending consideration of the 'Review Petition' dated 12.05.2018, by the First Respondent.

6.Considering the fact that as on date, the 'Review Petition' preferred by the Petitioners dated 12.05.2018, is pending on the file of the First Respondent/The Secretary to Government of Tamil Nadu, Housing and Urban Development Department, Chennai, at this stage, this Court, simpliciter directs the First Respondent to take up the 'Review Petition' of the Petitioners within a period of two weeks from the date of receipt of copy of this order and thereafter, the First Respondent is directed to pass a reasoned speaking Order on merits and in accordance with Law, of course, after providing adequate opportunity of 'Personal Hearing' to the Petitioners, by adhering to the Principles of Natural Justice. It is open to the Petitioners to raise all factual and legal pleas before the First Respondent, who shall advert to the same in the Order to be passed by him. In any event, the First Respondent is directed to pass a final Order on the 'Review Petition' of the Petitioners in a fair, free, just, unbiased and in a dispassionate manner, within a period of four weeks thereafter.

With the above observations/directions, the Writ Petition shall stand disposed of. No costs. Connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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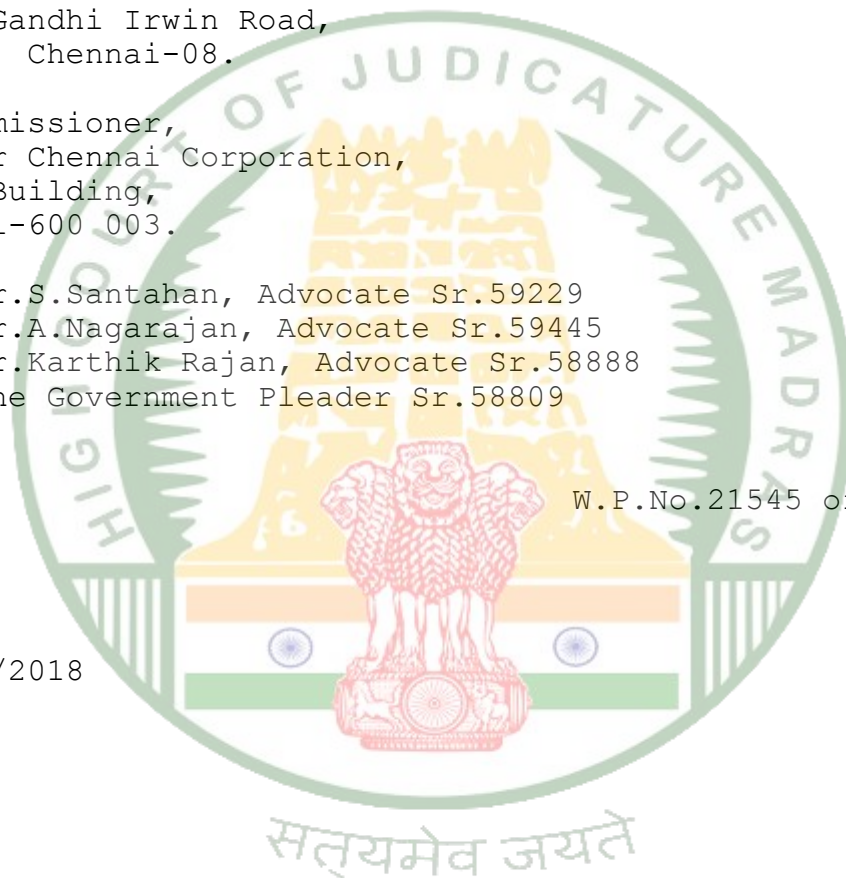
To

1. The Secretary,
The Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St.George,
Chennai-600 009.
- 2.The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai-08.
- 3.The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai-600 003.

+1cc to Mr.S.Santahan, Advocate Sr.59229
+1cc to Mr.A.Nagarajan, Advocate Sr.59445
+1cc to Mr.Karthik Rajan, Advocate Sr.58888
+1cc to the Government Pleader Sr.58809

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srg 14/09/2018



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