

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:23.01.2018
CORAM
THE HONOURABLE MR. JUSTICE R. SUBBIAH
AND
THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU
W.P. No. 1394 of 2018
&
W.M.P. No. 1762 of 2018

1. Manjudevi Kothari
2. Darmidevi ..Petitioners

Vs.

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
Housing and Urban Development
Department,
Fort St. George,
Chennai - 600 009.
2. The Greater Chennai Corporation,
rep. by its Commissioner,
Rippon Buildings,
Chennai - 600 003.
3. The Executive Engineer,
Zone V,
Greater Chennai Corporation,
61, Basin Bridge Road,
Chennai - 21. ...Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus forbearing the 2nd and 3rd respondents from in any way interfering with the petitioners' premises at No.20(14), Pillaiyar Koil Street, Park Town, Chennai - 600 003 more particularly by way of locking, sealing and demolition of the same, pending final determination of the Special Revision Petition and stay petition dated 24.05.2016 filed under Section 80-A and 80-A(3) of the Tamil Nadu Town and Country Planning Act with the 1st respondent.

For Petitioners :: Mr.B. Ramanathan

For Respondents :: Mr.A.N. Thambidurai,
Special Govt. Pleader for R1
Mr.K. Soundararajan,
Standing Counsel for R2 & R3

O R D E R

(Order of the Court was made by R. SUBBIAH, J.)

Mr.A.N. Thambidurai, learned Special Government Pleader takes notice for the 1st respondent and Mr.K. Soundararajan, learned Standing Counsel takes notice for respondents 2 and 3.

2. The present writ petition has been filed seeking issuance of a Writ of Mandamus forbearing the 2nd and 3rd respondents from in any way interfering with the petitioners' premises at No.20(14), Pillaiyar Koil Street, Park Town, Chennai - 600 003 more particularly by way of locking, sealing and demolition of the same, pending final determination of the Special Revision Petition and stay petition dated 24.05.2016 filed under Section 80-A and 80-A(3) of the Tamil Nadu Town and Country Planning Act with the 1st respondent.

3. The case of the petitioners is that they are the joint owners of the subject property and for the purpose of construction, they had applied and obtained sanction from the Corporation of Chennai on 04.12.2009 in PPA NO. WDC03/06013/2009 and obtained building permit in BA No. CD03/05531/2009. After obtaining such sanction, they had constructed the building in accordance with the sanctioned plan leaving set back distance. The petitioners' property has been assessed to property tax. According to the petitioners, though there are some deviations in the building constructed, they are minor violations and further, they are entitled to get exemption under Section 113(C) of the Tamil Nadu Town and Country Planning Act. While so, the 3rd respondent had caused notice calling for the approved plan from the petitioners for which they have given a suitable reply by enclosing the sanctioned plan already obtained by them and after the lapse of five months from the date of issuance of the earlier notice, the 3rd respondent had issued a locking and sealing notice dated 19.02.2016. Aggrieved by the said notice, the petitioners have preferred a Special Revision Petition as well as stay petition under Section 80-A and 80-A(3) of Town and Country Planning Act to the 1st respondent Government on 24.05.2016 and the same is pending. Pursuant to the locking and sealing notice, the 3rd respondent had also issued a de-occupation notice on 05.01.2018 wherein there is no reference about the pendency of the revision petition and stay petition filed by the petitioners. Though a reply has been given by the petitioners, apprehending coercive action at the hands of respondents 2 and 3, during the pendency of the Special Revision Petition, the petitioners have come forward with the present writ petition.

4. Learned counsel for the petitioners has brought to the notice of this Court the order dated 04.08.2017 passed by a

Division Bench of this Court in W.P. No. 20854 of 2017, in similar circumstances and submitted that following the same, similar orders could be passed in this writ petition as well.

5. Considering the facts and circumstances of the case, the 1st respondent is directed to consider the Special Revision Petition and stay petition filed by the petitioners on 24.05.2016 and pass appropriate orders on merits and in accordance with law, after affording an opportunity of hearing to the petitioners as well as to any other necessary parties concerned with the issue, on or before 31.03.2018. Till the disposal of the Special Revision Petition, no coercive steps shall be taken by respondents 2 and 3. The writ petition is disposed of accordingly. No costs. Connected W.M.P. is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
The Government of Tamil Nadu,
Housing and Urban Development
Department, Fort St. George,
Chennai - 600 009.
2. The Commissioner,
The Greater Chennai Corporation,
Rippon Buildings, Chennai - 600 003.
3. The Executive Engineer,
Zone V, Greater Chennai Corporation,
61, Basin Bridge Road,
Chennai - 21.

+1cc to Mr.K.Soundararajan, Advocate SR.No.5643

+1cc to Mr.P.Ramanathan, Advocate Sr.No.4914

sm:12.2.2018

W.P. No. 1394 of 2018