

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.6544 of 2018

and

W.M.P.No.8138 of 2018

Saralabai

.. Petitioner

Vs.

1. The Executive Engineer,
Zone-V, Corporation of Chennai,
Basin Bridge, Chennai-600 021.
2. The Secretary,
Representing the State of Tamil Nadu,
Housing and Urban Development Department,
Fort St.George, Chennai-600 009.
3. The Tamil Nadu Electricity Board,
Rep. by its Chairman,
Anna Salai, Chennai.
4. The Managing Director,
Chennai Metropolitan Water Supply and Sewerage Board (CMWSSB),
Chintadripet,
Chennai.

(Respondents 3 and 4 suo-motu impleaded
as per order of Court, dated 22.03.2018
passed in W.P.No.6544 of 2018)

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to forbear the first respondent from interfering with the peaceful possession and enjoyment of the premises No.55, Perumal Koil Garden, 2nd Lane, Kondithope, Chennai-79 by enforcing the order dated 06.12.2017 in Letter No.05/03565/2017 issued by the Executive

Engineer, Zone-V, Corporation of Chennai.

For Petitioner : Mr.G.Appavu

For Respondents : Mr.K.Soundararajan for R-1

Mr.R.Venkatesh, Govt. Advocate for R-2

Mr.S.K.Rameshwar for R-3

Mr.G.Janakiraman for R-4

ORDER

(The Order of the Court was made by S.Vaidyanathan, J)

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Mandamus to forbear the first respondent from interfering with the peaceful possession and enjoyment of the premises No.55, Perumal Koil Garden, 2nd Lane, Kondithope, Chennai-79 by enforcing the order dated 06.12.2017 in Letter No.05/03565/2017 issued by the first respondent/Executive Engineer, Zone-V, Corporation of Chennai.

2. Taking into consideration the facts and circumstances of the case, this Court suo-motu impleads the Tamil Nadu Electricity Board, represented by its Chairman, Anna Salai, Chennai as third respondent and the Managing Director, CMWSSB, Chintadripet, Chennai as fourth respondent.

3. Though the prayer in the Writ Petition is couched as requiring this Court to issue a Writ of Mandamus as stated supra, but indirectly, the petitioner is challenging the lock and seal notice dated 06.12.2017 issued by the second respondent under Section 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971

4. According to the petitioner, the land in question belongs to Chenna Kesava Perumal Devasthanam and that she has purchased a superstructure from the erstwhile owner and she is not aware of the construction made by the erstwhile owner in violation of the plan. It is further submitted that as against the said impugned notice, dated 06.12.2017, the petitioner has preferred an appeal, which is admittedly pending before the appellate authority. This Court may pass an order restraining the respondents from interfering with the peaceful enjoyment and possession of the property in question by the petitioner and also prevent them from locking and sealing the premises in question, but since the appeal is pending before the appellate authority under Section 80-A of the said Act, we are of the view that the appellate authority shall decide the appeal within certain time limit. Accordingly, the appellate authority under

Section 80-A of the said Act is directed to consider the said appeal on merits and in accordance with law, and by providing an opportunity of hearing to the parties concerned, including the complainant, if any, the appellate authority shall pass appropriate orders and dispose of the appeal within a period of three months from the date of receipt of a copy of this order. Till such appeal is decided finally one way or the other, the violated portion of the premises in question shall be kept under "lock and seal". That apart, the electricity supply and water connection will have to be disconnected. Accordingly, the third respondent/TNEB and the fourth respondent/CMWSSB are directed to effect disconnection of electricity supply and water connection respectively, to the premises in question. The third respondent/TNEB shall direct the concerned Area Assistant Engineer to effect disconnection of electricity supply to the violated portion of the premises in question.

5. Further, one of us (S.Vaidyanathan, J), in W.P.No.21239 of 2005, etc. batch, by order dated 18.12.2017, observed as follows with regard to the procedures to be followed by the authorities who conduct summary proceedings under Sections 79, 80-A and 113-C of the Tamil Nadu Town and Country Planning Act, 1971 and all other Sections therein that deal with the hearing of parties and adjudication in summary proceedings and orders to be passed thereunder:

"6. This Court makes it further clear that the regularisation proceedings shall be conducted by the respondents after hearing necessary parties who are likely to be affected and if there are complainants, they should also be heard. Whenever parties appear, the applicant(s) as well as the complainant(s) shall be heard and the conduct of the proceedings should be written down by the officer concerned who is hearing the matter, and he shall obtain signatures in the proceedings after recording the submissions if any made. It is like summary proceedings. The documents filed by the parties need to be given Exhibit numbers. A copy of the proceedings shall be furnished immediately thereafter to the parties concerned to avoid unnecessary allegation against the officials that the records have been manipulated. The authority concerned shall seek for written submissions from the petitioner(s) / applicant(s) / complainant (s) within a time frame and thereafter, the authority shall pass appropriate orders

within thirty days in accordance with
law. "

6. With the above observations and directions, the Writ Petition is disposed of. No costs. Consequently, W.M.P. is closed.

7. Post the Writ Petition "for reporting compliance" on 08.06.2018 for compliance of this order with regard to the disconnection of electricity supply and water connection, as directed above.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

cs
To

1. The Executive Engineer,
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Basin Bridge, Chennai-600 021.
2. The Secretary,
Representing the State of Tamil Nadu,
Housing and Urban Development Department,
Fort St.George, Chennai-600 009.
3. The Tamil Nadu Electricity Board,
Rep. by its Chairman,
Anna Salai, Chennai.
4. The Managing Director,
Chennai Metropolitan Water Supply and Sewerage Board
(CMWSSB),
Chintadripet,
Chennai.

+1cc to Mr.G.Appavu, Advocate, S.R.No.21705
+1cc to Mr.K.Soundararajan , Advocate, S.R.No.22982
+1cc to the Government Pleader, S.R.No.22828

W.P.No.6544 of 2018

GSP(06/04/2018)