

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2018

CORAM:

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

W.P.No.5415 of 2018

R.Sasikala

.. Petitioner

Vs.

The Commissioner,
Greater Chennai Corporation,
Rippon Buildings,
Chennai-600 003.

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondent to permit the petitioner to enter the premises owned by the petitioner herein comprised in Door No.3, Sathyanarayanan Street, West Mambalam, Chennai-600 033, more-fully described in T.S.No.1, Block No.8, Patta No.C.A.No.954/2011 ad-measuring 950 Sq.Ft. by virtue of Sale Deed registered in Document No.748/2012 at SRO, T.Nagar, dated 28.03.2012 and demolish the unauthorised constructed area alone which were erected without prior approval of the respondent, by considering the representation, dated 28.02.2018.

For petitioner : Mr.S.Lakshmikanth
For respondent : Mr.A.Nagarajan

ORDER

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

The petitioner has come forward with the above Writ Petition praying for issuance of a Writ of Mandamus to direct the respondent to permit the petitioner to enter the premises owned by the petitioner herein comprised in Door No.3, Sathyanarayanan Street, West Mambalam, Chennai-600 033, more-fully described in T.S.No.1, Block No.8, Patta No.C.A.No.954/2011, ad-measuring 950 Sq.Ft. by virtue of Sale Deed registered in Document No.748/2012 at SRO, T.Nagar, dated 28.03.2012 and demolish the unauthorised constructed area alone which were erected without prior approval of the respondent, by considering the representation, dated 28.02.2018.

2. Heard the learned counsel for the petitioner and the

learned Standing Counsel appearing for the respondent. By consent of the learned counsel appearing for the parties, the main Writ Petition itself is taken up for disposal.

3. According to the petitioner, she is the absolute owner of the property comprised in Door No.3, Sathyanarayanan Street, West Mambalam, Chennai-600 033, more-fully described in T.S.No.1, Block No.8, Patta No.C.A.No.954/2011, ad-measuring 950 Sq.Ft. by means of registered Sale Deed, vide Document No.748/2012 at SRO, T.Nagar, dated 28.03.2012. She purchased the property in question from her vendor one A.Hariharan, son of Anna Devarajan.

4. The stand of the petitioner is that prior to her purchase of the property in question, her vendor had started putting up construction in the aforesaid plot without obtaining prior plan approval from the respondent, which is mandatory in character. Hence, the respondent had locked and sealed the plot in question under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971, preventing the petitioner's vendor from putting up further construction. In fact, the petitioner has purchased the plot while it was still locked and sealed by executing the above said Sale Deed.

5. The version of the petitioner is that she had applied for fresh plan approval, which is pending before the respondent for construction of a dwelling house on 19.02.2018 under Section 49 of the said Act. Hence, she addressed a representation, dated 28.02.2018 to the respondent seeking permission to enter into the plot and demolish the constructed area, which was erected without approval.

6. Learned counsel for the petitioner submits that if permission is granted to the petitioner to demolish the existing unauthorised structure which was erected without permission, the petitioner gives an unconditional undertaking not to erect any further structure without her plan getting approved by the respondent-Corporation of Chennai.

7. Admittedly, the said representation of the petitioner, dated 28.02.2018 is pending. The petitioner is not able to enter into her plot which was purchased by her. The petitioner also comes out with a plea that the premises in question is being used by anti-social elements during wee hours and she is being kept only as a mute spectator watching her plot being used for all wrong acts. Hence, the petitioner prays for passing of an order by this Court permitting her to enter into the premises in question and permission may also be granted to her to demolish the unauthorised construction. She has also averred in her affidavit filed in support of the Writ Petition to the effect that she will demolish the unauthorised construction in question at her expense under the supervision of the respondent.

8. In view of the fact that the petitioner's vendor had put up the unauthorised construction and now that the petitioner only seeks permission from this Court to demolish the existing

unauthorised construction, which was erected without permission and also that in this Writ Petition and also in the representation, she had given an undertaking that she will not erect any further structure in the premises in question without obtaining necessary plan being approved by the respondent-Corporation of Chennai and added further, she has stated that she will carry out the demolition at her expenses under the supervision of the respondent, this Court finds that the pleas of the petitioner in this regard, are quite reasonable, bona-fide and just, and hence, this Court directs the respondent-Corporation to remove the lock and seal of the premises in question and this Court also accords permission for demolition of the existing construction, within the time and date to be specified by the respondent-Corporation of Chennai.

9. The respondent shall inform the petitioner in regard to the removal of the lock and seal of the premises in question and also depute an official in the rank of Assistant Engineer, Zone-X of the Corporation of Chennai, under whose supervision, the demolition of the unauthorised structure will be carried out by the petitioner at her expense. It is made clear that the petitioner shall not erect any further structure without her plan getting approved by the respondent.

10. With the above observations and directions, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To
The Commissioner,
Greater Chennai Corporation,
Rippon Buildings,
Chennai-600 003.

+1cc to Mr.J.Karuppaiah, Advocate SR.No.18381

+1cc to Mr.A.Nagarajan, Advocate Sr.No.19172

sm:19.3.2018

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