IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2018

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAISWAMY

W.P. No.29935 of 2018 and
W.M.P.No.34959 of 2018

1.S.Pooja
2.A.Sangeetha
3.R.Swetha Kumari .. Petitioners

Vs.

1.The Secretary to Government,
Housing and Urban Development Department,
Fort St.George,
Chennai - 600 009.

2.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai - 600 003.

3.The Assistant Engineer,
Town Planning Approval Section,
Regional Office Centre,
Corporation of Chennai,
No.36, Pulla Avenue,
Shenoy Nagar,
Chennai - 600 040.

4.The Executive Engineer,
Zone VI, Greater Chennai Corporation,
Chennai.

5.The Zonal Officer,
Zonal VI, Greater Chennai Corporation,
No.5, Anderson Road,
Ayanavaram,
Chennai - 600 023.

6.Chandra .. Respondents

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Petition filed under Article 226 of the Constitution of India praying for issue of Writ of certiorarified mandamus to call for the records of the 5th respondent in Notice No.Z.O.VI.C.No.Special/2018 dated 02.11.2018 and quash the same and direct the 2nd respondent to consider the petitioner's application in Ref.No.Application No.PPA/WDC No.6/95759/2014 dated 14.08.2014 on merits.

For Petitioners : Mr.G.Jeremiah
for Mr.P.Chandrasekar

For Respondents: Mrs.Kamalesh Kannan,
Government Advocate (R1)

Mr.V.C.Selvasekaran,
Standing Counsel (Corporation) (R2 to R5)

Mr.N.C.Ashok Kumar (R6)

O R D E R

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

The petitioners have filed the above Writ Petition to issue a Writ of certiorarified mandamus to call for the records of the 5th respondent dated 02.11.2018, to quash the same and to direct the 2nd respondent to consider the petitioners application dated 14.08.2014 on merits.

2.It is the case of the petitioners that the 5th respondent had issued a de-occupation notice dated 02.11.2018 without issuing any notice prior to the inspection as directed by this Court in W.P.Nos.9449 to 9451 of 2018 dated 17.04.2018. It is also the case of the petitioners that they have filed an appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act in the year 2015 challenging the lock-seal-demolition notice dated 30.06.2015 and the same is pending. Further, the petitioners contended that inspite of the pendency of the appeal, the 5th respondent had issued the impugned de-occupation notice dated 02.11.2018 under Section 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971.

3.On a perusal of the impugned de-occupation notice dated 02.11.2018, it could be seen that the petitioners failed to submit the approved planning permission at the time of inspection and the 5th respondent, after verifying the records, found that they have not obtained any planning permission from

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the Competent Authority. The petitioners have not enclosed the planning permission in the typed set of papers.

4.The learned counsel appearing for the petitioners submitted that the planning permission has not been granted to the petitioners till today.

5.The learned counsel appearing for the respondents 2 to 5 submitted that even without obtaining any planning permission, the petitioners have put up the construction, violating the provisions of the Town and Country Planning Act.

6.Since the petitioners have got remedy by way of an appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, for challenging the de-occupation notice dated 02.11.2018 issued under Section 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, we are not inclined to entertain the present Writ Petition. The petitioners have filed the Writ Petition without exhausting the appeal remedy available to them under Section 80-A of the Act.

7.In these circumstances, the Writ Petition is dismissed. It is open to the petitioners to challenge the de-occupation notice dated 02.11.2018 under Section 80-A of the Tamil Nadu Town and Country Planning Act. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

va

To

1.The Secretary to Government,
Housing and Urban Development Department,
Fort St.George,
Chennai - 600 009.

2.The Commissioner,
Corporation of Chennai,
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Chennai - 600 003.

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3.The Assistant Engineer,
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Zone VI, Greater Chennai Corporation,
Chennai.

5.The Zonal Officer,
Zonal VI, Greater Chennai Corporation,
No.5, Anderson Road,
Ayanavaram,
Chennai - 600 023.

+1cc to the Government Pleader Sr.81338
+1cc to Mr.S.Nagarajan, Advocate Sr.81650

W.P. No.29935 of 2018 and
W.M.P.No.34959 of 2018

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srg 11/12/2018

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