

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2018

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.32952 of 2018 and

W.M.P.No.38196 of 2018

Rajeswari

.. Petitioner

Vs.

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

2.The Executive Engineer,
Unit - 34, Division 55, Zone - XI,
Greater Chennai Corporation,
Zone - XI Office, Arcot Road,
Chennai - 600 087.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of certiorarified mandamus calling for the records leading to pass the impugned order of the 2nd respondent dated 07.12.2018 in Ma.All Na.Ka.No.E3/10445/2018 and quash the same and consequently, directing the 1st respondent to dispose of the appeal and stay petition filed by the petitioner on 18.07.2018 under Section 80-A of Tamil Nadu Town and Country Planning Act as against the order of the 2nd respondent dated 09.07.2018 in Notice No.Zone 11/31/2018.

For Petitioner : Mr.C.Jagadish

For Respondents : Mr.V.Jayaprakash Narayanan,
Government Pleader (i/c) (R1)

Mr.V.C.Selvasekaran,
Standing Counsel (R2)

O R D E R

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

The petitioner has filed the above Writ Petition to issue a Writ of certiorarified mandamus calling for the records leading to pass the impugned order of the 2nd respondent dated 07.12.2018

in Ma.A11 Na.Ka.No.E3/10445/2018 and quash the same and consequently, directing the 1st respondent to dispose of the appeal and stay petition filed by the petitioner on 18.07.2018 under Section 80-A of Tamil Nadu Town and Country Planning Act as against the order of the 2nd respondent dated 09.07.2018 in Notice No.Zone 11/31/2018.

2.It is the case of the petitioner that she put up construction in the premises in Door No.L-26, Azhagapuri, Ramapuram, Chennai - 600 009, by obtaining a planning permission from the Chennai Metropolitan Development Authority on 02.09.2008 for constructing Ground and First Floor. Thereafter, the petitioner obtained a planning permission on 28.04.2010 for putting up construction in the 2nd Floor. Thereafter, the petitioner unauthorizedly put up construction in the 3rd Floor and the authorities issued notice to the petitioner in respect of the construction put up by her in the 3rd Floor unauthorizedly. Subsequently, the petitioner applied for the demolition order before the 2nd respondent and pursuant to the same, the construction put up by her in the 3rd Floor was demolished by her. On 09.07.2018, the 2nd respondent issued de-occupation notice under Sections 56 & 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act to the petitioner.

3.The learned counsel for the petitioner submitted that the petitioner has filed an appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act challenging the de-occupation notice dated 09.07.2018, which according to the learned counsel for the petitioner is pending. The learned counsel further submitted that the petitioner has also filed a stay petition in the said appeal. However, no order has been passed in the stay petition so far.

4.Mr.V.Jayaprakash Narayanan, learned Government Pleader (i/c) taking notice for the 1st respondent submitted that the 1st respondent may be directed to dispose of the stay petition in two weeks time.

5.Having regard to the submissions made by the learned counsel on either side, since the petitioner has already challenged the de-occupation notice dated 09.07.2018 by way of an appeal under Section 80-A of the Act, we are of the considered view that it could be suffice to direct the 1st respondent to dispose of the stay petition within a time frame. Accordingly, we direct the 1st respondent to pass orders in the stay petition filed by the petitioner in the appeal filed under Section 80-A of the Tamil Nadu Town and Country Planning Act challenging the de-occupation notice dated 09.07.2018 within a period of two weeks from the date of receipt of a copy of this order. Till such time, the respondents are directed to maintain

status-quo. The 1st respondent shall decide the appeal filed by the petitioner under Section 80-A of the Act as expeditiously as possible.

6. With these observations, the Writ Petition is disposed of. No costs. consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

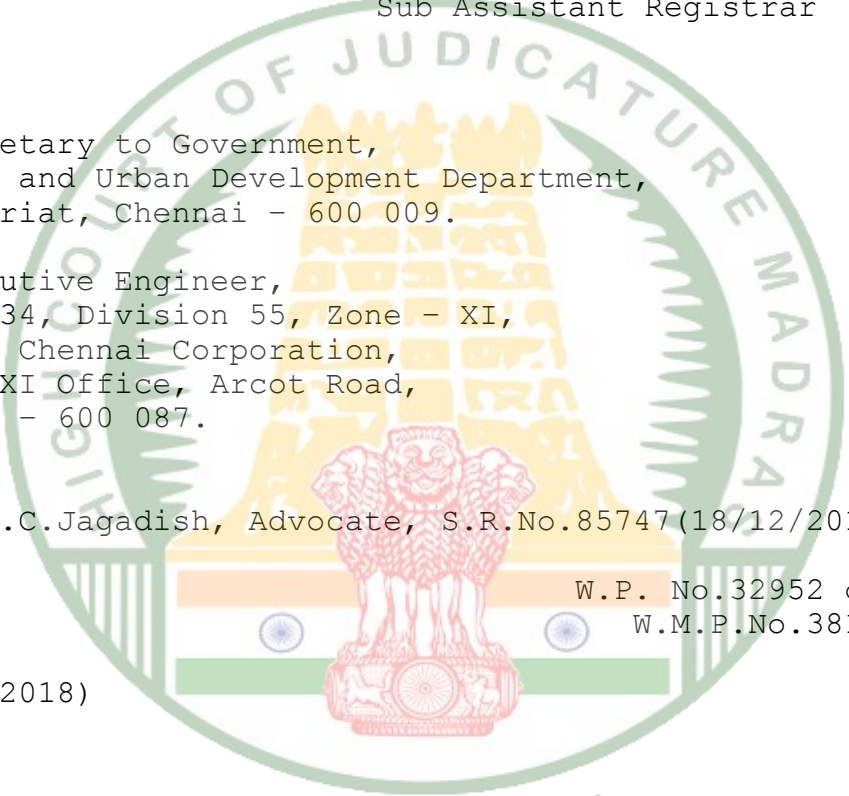
To

1. The Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai - 600 009.
2. The Executive Engineer,
Unit - 34, Division 55, Zone - XI,
Greater Chennai Corporation,
Zone - XI Office, Arcot Road,
Chennai - 600 087.

+1cc to Mr.C.Jagadish, Advocate, S.R.No.85747(18/12/2018)

W.P. No.32952 of 2018 and
W.M.P.No.38196 of 2018

GSP(10/12/2018)



सत्यमेव जयते

WEB COPY