

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 31.07.2019

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.Nos.22522 & 22526 of 2019 and
W.M.P.Nos.21944, 21947, 21953 & 21954 of 2019

V.Andrew Rajkumar .. Petitioner in W.P.No.22522/2019
Elliot Lionel Samson .. Petitioner in W.P.No.22526/2019

Vs.

1.The Secretary to Government of Tamil Nadu,
Housing & Urban Development,
Fort St.George,
Chennai - 600 009.

2.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

3.The Commissioner,
Corporation of Chennai,
Rippon Building,
No.113, Periyar EVR Salai,
Park Town, Chennai - 600 003.

4.The Executive Engineer,
Central Regional Office,
Zone - 8, Greater Chennai Corporation,
2nd Cross Street (East),
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.

.. Respondents in both the W.Ps

Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of certiorarified mandamus to call for the records of the 4th respondent comprised in their order dated 25.06.2019 bearing Ref.No.Z.O.VIII C.No.3700/2019 and Ref.No.Z.O.VIII C.No.3699/2019 and quash the same as arbitrary, illegal, unconstitutional and consequently forbear the respondents from taking any action against the petitioner's building at Flat No.335/5 & 335/6, 2nd Floor, Block No.335

(W.P.No.22522/2019) and Flat No.334/5, 2nd Floor, Block No.334 (W.P.No.22526/2019) Galaxy Apartments, Second Avenue, Anna Nagar, Chennai - 600 040 till the appeal of the petitioner under Section 113(C) of the Tamil Nadu Town and Country Planning Act is decided by the 1st respondent.

For Petitioner : Mr.S.Ramesh
(in both the W.Ps)

For Respondents : Mr.S.Kamalesh Kannan,
(in both the W.Ps) Government Advocate (R1)
Mr.Karthik Rajan (R2)
Dr.C.Ravichandran (R3 & R4)

C O M M O N O R D E R
(ORDER OF THE COURT WAS MADE BY M.DURAI SWAMY, J.)

Since the issue involved in both the Writ Petitions are identical and in respect of the same building, the Writ Petitions are disposed of by this common order.

2.The petitioners filed the Writ Petitions to issue Writs of certiorarified mandamus to call for the records of the 4th respondent in the order dated 25.06.2019 and to quash the same and to consequently forbear the respondents from taking any action against the petitioners' building at Flat No.335/5 & 335/6, 2nd Floor, Block No.335 (W.P.No.22522/2019) and Flat No.334/5, 2nd Floor, Block No.334 (W.P.No.22526/2019) Galaxy Apartments, Second Avenue, Anna Nagar, Chennai till the appeals of the petitioners under Section 113(C) of the Tamil Nadu Town and Country Planning Act are decided by the 1st respondent.

3.It is the case of the petitioners that they have given applications under Section 113(c) of the Tamil Nadu Town and Country Planning Act to regularize the construction put up by them and the same were returned by the 2nd respondent on 26.10.2018. Thereafter, the 4th respondent issued the impugned de-occupation notice dated 25.06.2019 under Section 56 (2a) and (5) clause (a) and (b) (i) (ii) of the Town and Country Planning Act, 1971.

4.On a perusal of the said notice, it is clear that the authorities issued notices calling for the approved plan on 09.06.2014 and locking and sealing and demolition notices dated 31.07.2014. Even the de-occupation notices were issued on 25.09.2014 and 06.04.2017.

5.As against the impugned de-occupation notices dated 25.06.2019, the petitioners have got remedy by way of an appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act. Without exhausting the appeal remedy, the petitioners have

filed the Writ Petitions, which cannot be entertained. In such view of the matter, we are not inclined to entertain the Writ Petitions. Accordingly, the Writ Petitions are dismissed. However, it is open to the petitioners to challenge the impugned de-occupation notices dated 25.06.2019 in accordance with law. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government of Tamil Nadu,
Housing & Urban Development,
Fort St.George,
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- 2.The Member Secretary,
Chennai Metropolitan Development Authority,
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- 4.The Executive Engineer,
Central Regional Office,
Zone - 8, Greater Chennai Corporation,
2nd Cross Street (East),
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.

+2ccs to Mr.S.Ramesh, Advocate, S.R.Nos.65867 & 65868
+1cc to the Government Pleader, S.R.No.65898
+1cc to Mr.Karthik Rajan, Advocate, S.R.No.66132
+1cc to Dr.C.Ravichandran, Advocate, S.R.No.65379

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CA(CO)

RRS (27/08/2019)