

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.10.2019

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

WP.No.30719 OF 2019 & WMP.No.30800 OF 2019

K.S.Rasheeda Banu

.. Petitioner

Versus

1. The Secretary
Housing and Urban Development
Department, Secretariat,
Chennai 600 009.
2. The Commissioner
Greater Corporation of Chennai
Ripon Buildings, Chennai 600 003.
3. The Executive Engineer
Town Planning Enforcement Officer
of Regional Joint Commissioner
Corporation of Chennai
Adyar, Chennai 600 020.
4. The Assistant Executive Engineer
Enforcement, Regional Deputy
Commissioner Office Central
Corporation of Chennai, Zone V
No.45, M.C.Road, Royapuram
Chennai 600 013.
5. The Assistant Engineer
Corporation of Chennai
Zone V, Division No.61,
Driver Street, Pudupet
Chennai 600 002.

.. Respondents

Prayer:-

Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the 1st respondent to dispose of the petitioner's application as well as the appeal dated 02.07.2019 pending before the 1st respondent.

For Petitioner : Mr.T.Velumani
For R1 : Mr.V.Jayaprakash Narayan
Government Pleader
For R2 to R5 : Dr.C.Ravichandran
Standing Counsel

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

- (1) By consent, the writ petition is taken up for final disposal. Mr.V.Jayaprakash Narayan, learned Government Pleader accepts notice on behalf of the 1st respondent and Dr.C.Ravichandran, learned Standing counsel accepts notice on behalf of the respondents 2 to 5.
- (2) The petitioner, in pursuant to the registered Deed of Settlement dated 25.07.2018 [Doc.No.1816/2018], registered on the file of the jurisdictional Sub Registrar, became the owner of the property at New Door No.50, Old Door No.874, Langs Garden Road, Pudupet, Chennai-2, along with the superstructure in the form of Ground Floor. A perusal of the materials would prima facie disclose that subsequently, the petitioner had put up First and Second Floors having plinth areas of 43.75 sq.m. each. The 3rd respondent has issued a De-Occupation Notice dated 18.12.2018 under Section 56[2][iii] and 2A of the Tamil Nadu Town and Country Planning Act, 1971, [in short 'TCP Act'], to discontinue the occupation of the premises and making a challenge to the same, the petitioner preferred a statutory revision/appeal under section 80-A of TCP Act, on 02.07.2019, and pending disposal of the same, filed an application for interim stay under Section 80-A[3] of the said Act to stay all further proceedings.
- (3) Mr.T.Velumani, learned counsel for the petitioner would submit that despite the statutory remedies have been availed, respondents 2 to 5 are threatening to evict the petitioner from the premises in question for the purpose of demolishing the alleged unauthorised portion and till disposal of the appeal, her rights to be protected.
- (4) Dr.C.Ravichandran, learned Standing counsel appearing for the respondents 2 to 5/Corporation of Chennai, would submit that even as per the own showing of the petitioner, there exist an unauthorised construction in the form of First and Second Floors having plinth areas of 900 sq.ft., and as such, the submissions made by the learned counsel for the petitioner lack merit and substance.

(5) This Court has considered the rival submissions and also perused the materials placed before it.

(6) This Court, taking into consideration, especially the submissions made by the learned counsel for the petitioner that the premises in question is used for residential purposes, directs the 1st respondent or the delegated authority to enter the Special Revision/Appeal if the papers are otherwise in order and take up the petition for interim relief first and give a disposal within a period of two weeks from the date of receipt of a copy of this order and till such time, respondents 2 to 4 shall defer further decision in terms of the impugned De-occupation notice.

(7) In the light of the fact that the constructions put up in the First and Second floors, prima facie appears to be wholly unauthorised, the Assistant Engineer, Operation and Maintenance, TANGEDCO, Pudupet, Chennai-600 002, is directed to disconnect the electricity supply given to the First and Second Floors and depending upon the result of the special revision/appeal, further steps may be taken by the said authority.

(8) The 1st respondent shall also accord priority and give a disposal to the special revision/appeal as expeditiously as possible.

(9) The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

AP

To

1. The Secretary
Housing and Urban Development
Department, Secretariat,
Chennai 600 009.
2. The Commissioner
Greater Corporation of Chennai
Ripon Buildings, Chennai 600 003.

3. The Executive Engineer
Town Planning Enforcement Officer
of Regional Joint Commissioner
Corporation of Chennai
Adyar, Chennai 600 020.
4. The Assistant Executive Engineer
Enforcement, Regional Deputy
Commissioner Office Central
Corporation of Chennai, Zone V
No.45, M.C.Road, Royapuram
Chennai 600 013.
5. The Assistant Engineer
Corporation of Chennai
Zone V, Division No.61,
Driver Street, Pudupet
Chennai 600 002.

Copy To:-

1. The Chairman,
Tamil Nadu Generation and Distribution
Corporation Limited,
Anna Salai, Chennai-2
2. The Assistant Engineer,
Operation and Maintenance,
TANGEDCO, Pudupet, Chennai-600 002.

+1cc to Dr.C.Ravichandran, Advocate, S.R.No.90281
+1cc to Mr.T.Velumani, Advocate, S.R.No.90168
+1cc to the Government Pleader, S.R.No.90669

WP.No.30719 OF 2019

RSI (CO)
CS/11/12/2019

सत्यमेव जयते

WEB COPY