

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P.Nos.33640, 33643, 33646 & 33650 of 2019
and W.M.P.Nos.34112, 34113, 34116,
34118, 34119 & 34120 of 2019

1.S.Mallika
2.P.Deepa

...

Petitioners
[in W.P.No.33640/2019]

Arshad Ahmed

....

Petitioner
[in W.P.No.33643/2019]

Suresh Chand Chordia

...

Petitioner
[in W.P.No.33646/2019]

1.Dr.Saleem Basha
2.Nafiya Jabeen

....

Petitioners
[in W.P.No.33650/2019]

versus

1.State of Tamil Nadu,
Rep. by its Secretary,
Housing and Urban Development Department,
Fort St.George,
Chennai - 600 009.

2.The Chairman,
Chennai Metropolitan Development Authority (CMDA),
Thalamuthu Natarajan Building,
Egmore, Chennai - 600 008.

3.The Commissioner,
Corporation of Chennai,
Ripon Buildings, Chennai - 600 003.

4.The Assistant Engineer,
Chennai Corporation,
Ward No.33, Zone No.3,
Bazaar Street, Madhavaram,
Chennai - 600 060.

5.The Executive Engineer, Zone - III,
Greater Chennai Corporation,
No.1, Thattankulam Street,
Bazaar Street, Madhavaram,
Chennai - 600 060.

... Respondents [in all W.Ps.]

Prayer in W.P.No.33640/2019: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents 2 to 4 from locking and seal of the premises at first and second floor at Door No.55, Madhavaram High Road, Moolakadai, Chennai - 600 060 in pursuant to the Letter No.22060/UD/VII(I)2017-3, Dt:25.09.2019 on the file of the first respondent and Deoccupation Notice in Letter No.03/00003/2017 dated 13.9.2017 under Sec.56 Sub Section 2(A) and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 on the file of 4th respondent issued in the name of the first petitioner's husband Suresh Babu till the disposal of the petitioners Review Application Dt:11-11-2019 on the file of the first respondent.

Prayer in W.P.No.33643/2019: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents 2 to 4 from locking and seal of the premises at Door No.46/C, Madhavaram High Road, Chennai - 600 060, an extent of 6.5' x 4' on the southern side front portion of the above said premises underneath of stair case in pursuant to the Letter No.22060/UD/VII(I)2017-3, Dt:25.09.2019 on the file of the first respondent and the impugned Notice Ref.No.DN/33/2017, dated 25.07.2017, under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 as amended by Act 1961 of 2008 on the file of 4th respondent and Deoccupation notice Letter No.03/00003/2017 dated 13.09.2017 on the file of the 4th respondent pending disposal of the Review Application Dt:11-11-2019 on the file of the first respondent.

Prayer in W.P.No.33646/2019: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents 2 to 4 from locking and seal of the premises at second floor at Door No.46-C and 55, Madhavaram High Road, Moolakadai, Chennai - 600 060, in pursuant to the Letter No.22060/UD/VII(I)2017-3, Dt:25.09.2019 on the file of the first respondent and the impugned lock and seal notice dated 25.07.2017, in Ref.No.Dn/33/2017, issued by the 4th respondent under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 as amended by Act 1961 of 2008 and Deoccupation Notice in Letter No.03/00003/2017 dated 13.09.2017 under Section 56 Sub Section 2(A) and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 on the file of the fourth respondent till the disposal of the petitioner's application Dt:11-11-2019 on the file of the first respondent.

Prayer in W.P.No.33650/2019: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents 2 to 4 from locking and seal of the premises at ground floor at Door No.55, Madhavaram High Road, Moolakadai, Chennai - 600 060, in pursuant to the

Letter No.22060/UD/VII(I)2017-3, Dt:25.09.2019 on the file of the first respondent and Deoccupation Notice in Letter No.03/00003/2017 dated 13.09.2017 under Section 56 Sub Section 2(A) and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 on the file of the fourth respondent issued in the name of "Elahi Dental Clinic" till the disposal of the petitioner's Review application Dt:11-11-2019 on the file of the first respondent.

For Petitioners : Mr.J.R.K.Bhavanantham
[in all W.Ps.]
For Respondent No.1 : Mr.V.Shanmuga Sundar
[in all W.Ps.] Special Government Pleader
For Respondent No.2 : Mr.S.Thiruvengadam
[in all W.Ps.] Standing Counsel for C.M.D.A.
For Respondent Nos.3 to 5: Mr.V.C.Selvasekaran
[in all W.Ps.] Standing Counsel for Corporation

C O M M O N O R D E R

[Order of this Court was made by R.SUBBIAH, J.]

The petitioners have come up with these present Writ Petitions for a Mandamus, forbearing the respondents 2 to 4 from locking and seal of the premises at first and second floor at Door Nos.46-C and 55, Madhavaram High Road, Moolakadai, Chennai, in pursuant to the Letter No.22060/UD/VII (I)2017-3, dated 25.09.2019 on the file of the first respondent and De-occupation Notice in Letter No.03/00003/2017 dated 13.9.2017 under Section 56 Sub Section 2(A) and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 on the file of the fourth respondent till the disposal of the petitioners' Review Application dated 11.11.2019 on the file of the first respondent respectively.

2. Today, when these petitions are taken up for consideration, the learned Standing Counsel appearing on behalf of respondents 3 to 5 / Corporation submitted that, the Government has passed an order dated 25.09.2019 under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971. As against the said order, petitioners had filed a Review Application under Section 81 of the Tamil Nadu Town and Country Planning Act, 1971, which is not maintainable. In support of his submissions, he relied upon Section 81 of the Tamil Nadu Town and Country Planning Act, 1971, which reads as follows:-

"Section 81 :(1) The appellant or the applicant for revision or the respondent may apply for the review of any order passed under sections 76 to 78 and 80, on the basis of the discovery of new and important facts which, after the exercise of due diligence, were not then within his knowledge or could not be produced by him when the order was made, or on the basis

of some mistake or error apparent on the face of the record or for any other sufficient reason."

3. Therefore, from the above, it could be seen that the petitioners may apply for the review only as against the order passed under Sections 76 to 78 and 80, and not under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971. When that be the legal position, we are not inclined to give any direction to the petitioners. Hence, these Writ Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

sri

To

- 1.The Secretary,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St.George,
Chennai - 600 009.
- 2.The Chairman,
Chennai Metropolitan Development Authority (CMDA),
Thalamuthu Natarajan Building,
Egmore, Chennai - 600 008.
- 3.The Commissioner,
Chennai Corporation,
Ripon Buildings, Chennai - 600 003.
- 4.The Assistant Engineer,
Corporation of Chennai,
Ward No.33, Zone No.3,
Bazaar Street, Madhavaram,
Chennai - 600 060.
- 5.The Executive Engineer, Zone - III,
Greater Chennai Corporation,
No.1, Thattnkulam Street,
Bazaar Street,
Madhavaram,
Chennai - 600 060.

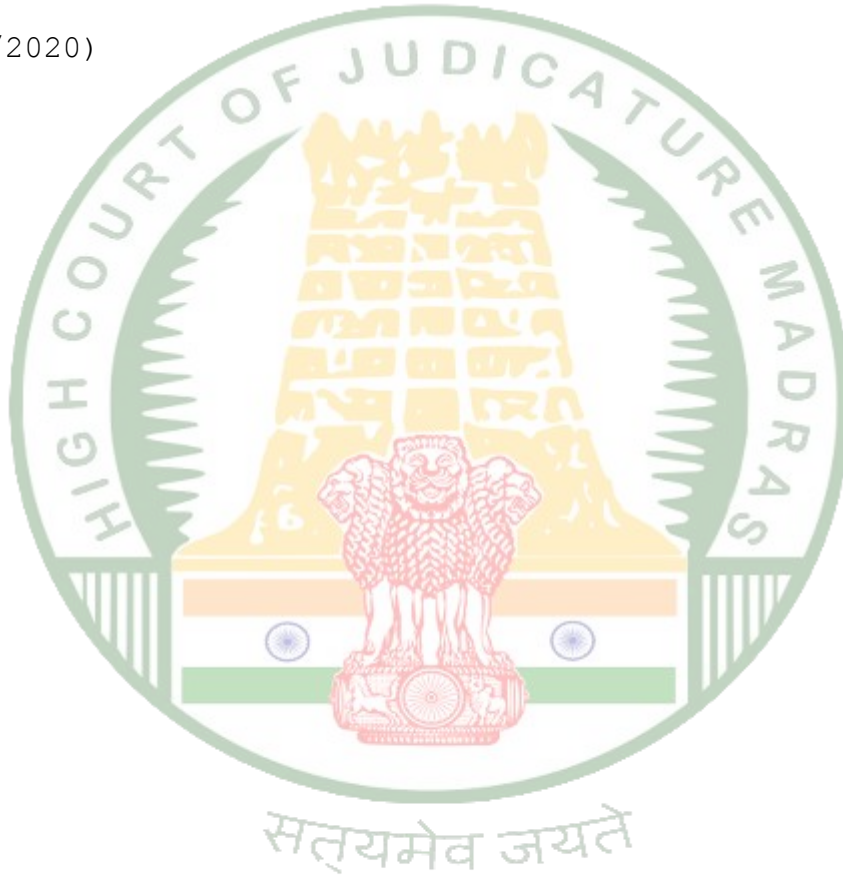
+4cc to Mr.J.R.K.Bhavanantham, Advocate SR.No.105192, 105193,
105194, 105195

+1cc to Mr.S.Thiruvengadam, Advocate SR.No.105233

+1cc to Government Pleader SR.No.105826

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PM (CO)
GMY (03/02/2020)



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