

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MRS.JUSTICE R.HEMALATHA

W.P.Nos.2864, 2869, 2987 & 3003 of 2020
and W.M.P.Nos. 3304,3306, 3312,3314,3316,3486,3488,3492,3500 and
3504 of 2020

1.Suresh Chand Chordia ... Petitioner
in WP 2864/2020

2.Saleem Basha
Nafiya Jabeen .. Petitioners
in WP 2869/2020

S.Mallika
P.Deepa .. Petitioners
in WP 2987/2020

Arshad Ahmed .. Petitioner
in WP 3003/2020

Vs

1. State of Tamil Nadu
Rep.by its Secretary,
Housing and Urban Development Department,
Fort St.George, Chennai - 09.
2. The Chairman,
Chennai Metropolitan Development Authority,
(CMDA) Thalamuthu Natarajan Building,
Egmore, Chennai - 08.
3. The Commissioner,
Corporation of Chennai,
Ripon Buildings, Chennai - 03.
4. The Assistant Engineer,
Chennai Corporation,
Ward No.33, Zone No.3,
Bazaar Street, Madhavaram,
Chennai - 60.

5. The Executive Engineer, Zone III,
Greater Chennai Corporation,
No.1, Thattnkulam Street,
Bazar Street, Madhavaram,
Chennai - 60.

.. Respondents
in all WPs

Prayer in W.P.No. 2864 of 2020:Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records relating to Letter No.22060/UD/VII(I)2017-3, dated 25.09.2019 on the file of the first respondent passed under Section 80A of Tamil Nadu Town and Country Planning Act,1971 in the revision filed by the petitioner and lock and seal notice dated 25.07.2017 in Ref No.Dn/33/2017, issued u/s 56 and 57 r/w Sec.85 of the Tamil nadu Town and Country Planning Act 1971 as amended by Act 61 of 2008 and deoccupation notice in Letter No.03/00003/2017 dated 13.09.2017 under Sec.56 sub section 2(A) and 57 read with Section 85 of the Tamil Nadu Town and Country on the file of the fourth respondent and quash the same and direct the second and third respondent to consider the petitioner's application dated 22.03.2018 made under Building Regularisation Scheme with the second respondent CMDA under Section 113-C of Town and Country Planning Act,1971 for exemption of Building in prescribed Form-A, Annexure - I and for regularization of Building situate in Door No.46C, Second Floor in Survey No.1094, Madhavaram Village in Ambattur Taluk, Tiruvellore District.

Prayer in W.P.No. 2869 of 2020:Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records relating to Letter No.22060/UD/VII(I)2017-3, dated 25.09.2019 on the file of the first respondent passed under Section 80A of Tamil Nadu Town and Country Planning Act,1971 in the revision filed by the petitioners and de-occupation notice in Letter No.03/00003/2017 dated 13.09.2017 under Sec.56 sub section 2(A) and 57 read with Section 85 of the Tamil Nadu Town and Country on the file of the fourth respondent issued in the name of "ELAHI DENTAL CLINIC" and quash the same and direct the second and third respondent to consider the petitioner's application dated 21.03.2018 made under Building Regularisation Scheme with the CMDA under Section 113-C of Town and Country Planning Act,1971 for exemption of Building in prescribed Form-A, Annexure - I and for regularization of Building situate in Door No.55B, Ground Floor Madhavaram High Road, Chennai - 60 in Survey No.1094/2B, Madhavaram Village in Ambattur Taluk, Tiruvellore District.

Prayer in W.P.No. 2987 of 2020:Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records relating to

Letter No.22060/UD/VII(I)2017-3, dated 25.09.2019 on the file of the first respondent passed under Section 80A of Tamil Nadu Town and Country Planning Act,1971 in the revision filed by the petitioners and de-occupation notice in Letter No.03/00003/2017 dated 13.09.2017 under Sec.56 sub section 2(A) and 57 read with Section 85 of the Tamil Nadu Town and Country on the file of the fourth respondent issued in the name of my husband Suresh Babu and quash the same and direct the second and third respondent to consider the petitioner's two application dated 22.03.2018 made under Building Regularisation Scheme with the CMDA under Section 113-C of Town and Country Planning Act,1971 for exemption of Building in prescribed Form-A, Annexure - I and for regularization of Building situate in Door No.55B, Ground Floor Madhavaram High Road, Chennai - 60 in Survey No.1094/2B2, Madhavaram Village in Ambattur Taluk, Tiruvellore District.

Prayer in W.P.No. 3003 of 2020:Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records relating to Letter No.22060/UD/VII(I)2017-3, dated 25.09.2019 on the file of the first respondent passed under Section 80A of Tamil Nadu Town and Country Planning Act,1971 in the revision filed by the petitioners against the lock and seal notice dated 25.07.2017 in Ref.No.03/00003/2017, U/s. 56 and 57 R/s Sec.85 of the Tamil Nadu Town and Country Planning Act 1971 as amended by Act 61 of 2008 and de-occupation notice in Letter No.03/00003/2017 dated 13.09.2017 under Sec.56 sub section 2(A) and 57 read with Section 85 of the Tamil Nadu Town and Country on the file of the fourth respondent and quash the same and direct the second and third respondent to consider the petitioner's two application dated 23.03.2018 made application under Building Regularisation Scheme with the second respondent CMDA under Section 113-C of Town and Country Planning Act,1971 for exemption of Building in prescribed Form-A, Annexure - I and for regularization of Building situate in Door No.46/C, Ground Floor M.H.Road,Moolakadai, Madhavaram, Chennai - 60 in Survey No.1094/2B, Madhavaram Village in Ambattur Taluk, Tiruvellore District.

For Petitioner(s)	..	Mr.J.R.K.Bhavanantham
(in all)		
For Respondents		
(in all)	..	Mr.R.Vijayakumar,
		Additional Government Pleader
		for R1
		Mr.Karthik Rajan for R2
		Mr.Rajasrinivas for R3 to R5

COMMON ORDER

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

In view of the fact that the similar common issue being involved in all these writ petitions, they are disposed of by a common order.

2.In all these writ petitions, the order passed by the Government under Section 80A of the Tamil Nadu Town and Country Planning Act, 1971 is put to challenge.

3.Learned counsel appearing for the petitioners submitted that the issue involved is no longer res integra. On the question of entitlement of regularization by invoking Section 113(c) of the Town and Country Planning Act, 1905, this Court considered the similar issue in W.P.No. 28565 of 2019 dated 03.03.2020 and, therefore, the said order will have to be considered to the effect that till the applications filed by the petitioners seeking regularisation and appropriate orders entitling them the benefit of Section 113(c) of the Town and Country Planning Act, 1905 are considered, status quo as on today shall be maintained.

4.Learned counsel appearing for the Corporation submitted that similar orders passed in W.P.No. 28565 of 2019 wherein one of us (R.HEMALATHA .,J) is a party. In the aforesaid case, the following order has been passed by taking into consideration the order passed in W.P.No.27767 of 2018 dated 30.10.2018. The relevant paragraphs read thus:

5.In view of the facts and circumstances and in consequence to the order passed in W.P.No.27767 of 2018 and considering the fact that the application of the petitioner is also pending before the second respondent, status quo as on date shall be maintained till the disposal of the application of the petitioner under Section 113-C of the Tamil Nadu Town and Country Planning Act, 1971.

4.With the above observations, this writ petition is disposed of. Consequently, the connected miscellaneous petition is closed. No costs.

5.In the cases on hand, there is no dispute on the factual position. Thus, in view of the same, the earlier order passed will have to be applicable to the case of the petitioners as

well. Accordingly, the writ petitions stand disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Secretary,
Housing and Urban Development Department,
Fort St.George, Chennai - 09.
2. The Chairman,
Chennai Metropolitan Development Authority,
(CMDA) Thalamuthu Natarajan Building,
Egmore, Chennai - 08.
3. The Commissioner,
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5. The Executive Engineer, Zone III,
Greater Chennai Corporation,
No.1, Thattnkulam Street,
Bazar Street, Madhavaram,
Chennai - 60.

+4cc to Mr.J.R.K.Bhavanantham, Advocate in
SR.NO..30535, 30536, 30537, 30538

+1cc to Mr.K.Raja Shrinivas, Advocate in
SR.NO. 30740

W.P.Nos. 2864,2869,2987 & 3003 of 2020

PVS (CO)
RV(06/10/2020)