

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2020

CORAM

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

Writ Petition No.3535 of 2020
and W.M.P. Nos.4136 & 4137 of 2020

1.Saranya
2.Pushpalatha ... Petitioners

Vs

1.The Corporation of Chennai,
rep. by its Commissioner,
Ripon Building, Chennai - 600 003.

2.The Executive Engineer,
Zone XIII, Corporation of Chennai,
Dr.Muthulakshmi Salai,
Adyar, Chennai - 600 020.

3.The Government of Tamil Nadu,
rep. by its Secretary to Government,
Housing and Urban Development Department,
Fort St. George,
Chennai - 600 009. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the 1st and 2nd respondents or anybody on their behalf from initiating any coercive action of locking and sealing and demolition with regard to the building put up at No.40/71-A, 4th Main Road, Gandhi Nagar, Adyar, Chennai - 600 020 pending determination of the Revision Petition submitted under Section 80-A and 80-A(3) of the Tamil Nadu Town and Country Planning Act dated 10.02.2020 with the third respondent.

For Petitioners: Mr.S.Rajasekaran
For Respondents: Mr.K.Raja Srinivas for R1 & R2
Mr.K.S.Suresh,
Government Advocate for R3

O R D E R

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

The writ petition has been filed forbearing the 1st and 2nd respondents or anybody on their behalf from initiating any

coercive action of locking and sealing with regard to the building put up at No.40/71-A, 4th Main Road, Gandhi Nagar, Adyar, Chennai - 600 020 pending determination of the Revision Petition submitted under Section 80-A and 80-A(3) of the Tamil Nadu Town and Country Planning Act (hereinafter referred to as 'the Act') dated 10.02.2020 with the third respondent.

2. Though very many contentions have been raised in this writ petition, the sum and substance of the learned counsel appearing for the petitioners is that the second respondent issued a notice dated 23.04.2018 for lock and seal the above building under Section 56 of the Act. As against the said notice, the petitioners preferred Special Revision Petition under Section 80-A of the Act and also filed a writ petition in W.P. No.12979 of 2018 before this Court. The same was disposed of by this Court vide order dated 30.05.2018 with a direction to the third respondent to dispose of the appeal within three months and to maintain status quo till such time. Thereafter, the Government disposed of the Appeal vide order dated 19.03.2019 holding that if any such deviations, the same may be rectified within three months and directed the petitioner to obtain planning permission as per the rules in force. As per the above direction, after rectifying such deviations, the petitioners had applied for regularisation by submitting revised plan to the Corporation of Chennai on 12.06.2019. According to the learned counsel appearing for the petitioners, as per the newly revised planning rules, the petitioners are eligible to get the building regularised. As per Section 49 of the Act, no action of removal or demolition shall be initiated during the pendency of the application for revised plan. While the petitioners' Application for revised plan is pending consideration, the second respondent issued a de-occupation notice dated 03.02.2020 for lock and seal the premises under Section 56 of the Act, which is not valid in law and violative of the provisions of the Act as well as newly amended Tamil Nadu Combined Building Development Rules, 2019. Hence, the petitioners immediately filed a Special Revision Petition and Stay Petition under Sections 80-A and 80-A(3) of the Act on 10.02.2020. In the meanwhile, the respondents are taking hectic steps to lock and seal the building. Hence the petitioners have come forward with the present writ petition.

3.* "Since the scope of the petition is very narrow, this Court, without traversing to the averments made in the affidavit, is inclined to grant a direction to the third respondent. Accordingly the third respondent is directed to take up the stay petition filed in Special Revision Petition and pass appropriate orders on merits and in accordance with law, within a period of two weeks. Till such time, order of status quo shall be maintained. Thereafter, the third respondent is directed to

dispose of the main Special Revision Petition itself within a period of twelve weeks".

4. Accordingly, the writ petition stands disposed of. Consequently, connected W.M.Ps are closed. No costs.

Sd/-
Assistant Registrar(CS III)
Dated: 13.02.2020

*** Para 3 of the order dated 13/02/2020 has been deleted and replaced as per order of this Court dated 05/03/2020**

Sd/-Assistant Registrar(CS III)
Dated: 22.06.2020

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner,
Corporation of Chennai,
Ripon Building,
Chennai - 600 003.

**To be Substituted to this
order already despatched on
02/03/2020**

2.The Executive Engineer,
Zone XIII, Corporation
of Chennai,
Dr.Muthulakshmi Salai,
Adyar, Chennai - 600 020.

3.The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban
Development Department,
Fort St. George,
Chennai - 600 009.

+1cc to Mr.D.S.Rajasekaran, Advocate Sr.* 19491

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srg 02/03/2020
GN(25/06/2020)