

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2020

CORAM

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

W.P.No. 13808 of 2020
and W.M.P.No.17162 of 2020

M.Saroja .. Petitioner

vs

- 1.Greater Chennai Corporation,
Rep. By the Commissioner,
Ripon Buildings, Chennai - 03.
 - 2.The Assistant Commissioner,
Greater Chennai Corporation,
Zone-VI, No.5, Anderson Road,
Ayanavaram, Chennai - 23.
 - 3.The Executive Engineer,
Greater Chennai Corporation,
Zone-VI, No.5, Anderson Road,
Ayanavaram, Chennai - 23.
 - 4.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 08.
 - 5.The Secretary to Government,
Housing and Urban Development Department,
Fort St.George,
Secretariat, Chennai - 09.
- .. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus forbearing the respondents from taking any coercive action of locking and sealing of the building Door No.42, Old No.38, Subramanian Street, Paddy Field Road, Perambur, Chennai - 600011, pending disposal of the appeal dated 21.09.2020 under Section 79 of the Tamil Nadu Town and Country Planning Act, 1971 pending on the file of the fifth respondent.

For Petitioner .. Mr.S.Santhan

For Respondents .. Mr.K.Rajasrinivas
for R1 to R3
Mr.Karthik Rajan for R4
Mr.R.Vijayakumar,
Addl.Govt. Pleader for R5

ORDER

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

This writ petition has been filed seeking a direction to the respondents by way of a prohibitory order from taking any coercive steps towards the locking and sealing pending disposal of the appeal filed and stated to be pending before the fifth respondent.

2.Heard the learned counsel appearing for the parties.

3.In paragraph 12 of the affidavit filed, the petitioner has stated as follows:

"12. I state that as against the order passed by the 4th respondent dated 21.07.2017, I have preferred an appeal dated 21.09.2020 under Section 79 of Tamil Nadu Town and Country Planning Act, 1971 before the 5th respondent herein. Further I state that on perusal of the papers held by my late husband, I found that my late husband has already given an undertaking to demolish the third floor portion as pointed by the 4th respondent in their letter dated 25.03.2017 and I also hereby assure and undertake that I will demolish the third floor as was undertaken by my late husband."

4. Taking into consideration the aforesaid averments made, we permit the petitioner to carry out the demolition as indicated by respondents 1 to 4. Thus, the petitioner is given a further period of three months from the date of receipt of a copy of this order to carry out the demolition in tune with the approved plan. Thereafter, the petitioner will have to make a representation on the compliance made to the fourth respondent/CMDA within a period of two weeks. The fourth respondent/CMDA shall make an inspection and satisfy the compliance made. If the petitioner has made compliance then there is no need for further action at the instance of respondents 1 to 4. However, we make it clear that if the petitioner has not complied with the above said direction,

respondents 1 to 4 are at liberty to proceed further in accordance with law. We also note that the very appeal itself has been filed after a huge delay of more than 1200 days and in any case, there is no need to take note of the same in view of the averments made by the petitioner as aforesaid.

5. The writ petition stands disposed of accordingly. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

- 1.The Commissioner
Greater Chennai Corporation,
Ripon Buildings, Chennai - 03.
 - 2.The Assistant Commissioner,
Greater Chennai Corporation,
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 - 5.The Secretary to Government,
Housing and Urban Development Department,
Fort St.George,
Secretariat, Chennai - 09.
- +1cc To Mr.Karthik Rajan, Advocate, sr no.32591
+1cc To Mr.K.Raja Sriniva, Advocate, sr no.32060

W.P.No. 13808 of 2020

SRA (CO)
RMP (08/10/2020)