

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 07.12.2020
CORAM
THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MRS. JUSTICE R.HEMALATHA
WP.Nos.17851, 17860 & 17863/2020 & WMP.Nos.22140, 22141, 22142,
22145, 22146, 22147, 22149, 22151 & 22152/2020

S.Arunachalam .. Petitioner
in WP.No.17851/2020

S.Saravanan .. Petitioner in
WP.No.17860/2020

S.Senthil .. Petitioner in
WP.No.17863/2020

Versus

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

2.The Commissioner
The Corporation of Chennai
Rippon Buildings
Chennai 600 003.

3.Executive Engineer/Z-IX
Greater Chennai Corporation
Zone-IX, No.1, Lake Area,
4th Cross Street, Nungambakkam
Chennai 600 034.

सत्यमेव जयते..

Respondents in all
WPs

Prayer in WP.No.17851/2020:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relating to lock and seal notice issued upon the petitioner bearing Notice No.Zone-IX/DN-123/TPENF/38/2020 dated 09.10.2020 and De-Occupation Notice issued upon the petitioner bearing Notice No.Zone-IX/DN-123/TPENF/38/2020 dated 12.11.2020 both being passed by the 3rd respondent and to quash the same and forbear the respondents from taking any coercive action against the

petitioner's premises located at Door No.Old No.15A, New No.26, Block No.35, Survey No.RS.No.1673/15&18, Karpagambal Nagar, Mylapore, Chennai 600 004.

Prayer in WP.No.17860/2020:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relating to lock and seal notice issued upon the petitioner bearing Notice No.Zone-IX/DN-123/TPENF/38/2020 dated 09.10.2020 and De-Occupation Notice issued upon the petitioner bearing Notice No.Zone-IX/DN-123/TPENF/38/2020 dated 12.11.2020 both being passed by the 3rd respondent and to quash the same and forbear the respondents from taking any coercive action against the petitioner's premises located at Door No.Old No.15A, New No.26, Block No.35, Survey No.RS.No.1673/15&18, Karpagambal Nagar, Mylapore, Chennai 600 004.

Prayer in WP.No.17861/2020:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relating to lock and seal notice issued upon the petitioner bearing Notice No.Zone-IX/DN-123/TPENF/38/2020 dated 09.10.2020 and De-Occupation Notice issued upon the petitioner bearing Notice No.Zone-IX/DN-123/TPENF/38/2020 dated 12.11.2020 both being passed by the 3rd respondent and to quash the same and forbear the respondents from taking any coercive action against the petitioner's premises located at Door No.Old No.15A, New No.26, Block No.35, Survey No.RS.No.1673/15&18, Karpagambal Nagar, Mylapore, Chennai 600 004.

For Petitioners in
all Wps : Ms.Y.Kavitha

For R1 in all WPs : Mr.S.Kamalesh Kannan
Government Advocate

For RR2&3 in all WPs : Mr.K.Raja Srinivas
Standing Counsel

COMMON ORDER

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

- (1) By consent, the writ petitions are taken up for final disposal and are disposed of by this common order since the issue involved and to be adjudicated, is one and the same.

(2)Mr.S.Kamalesh Kannan, learned Additional Government Pleader accepts notice on behalf of the 1st respondent and Mr.K.Raja Srinivas, learned Standing counsel accepts notice on behalf of respondents 2 and 3.

(3)The petitioners are the joint purchasers of the house, ground and premises, formerly bearing Old Door No.58, then Door No.162, Luz Church Road, presently bearing Old Door No.15A, New No.26, Karpagambal Nagar, Mylapore, Chennai-4, admeasuring to an extent of 2491 sq.ft. It appears that the petitioners have obtained the Planning Permission to put up a new construction and in the light of the complaints received as to the deviated construction, the 3rd respondent caused inspection of the on-going construction and noted the following deviation:-

Sl.No	Description	As per plan	As per site	Difference	Deviated / unauthorised
1	Still Floor Area	140 01 M2	196 03 M2	50 02 M2	Deviated
2	First Floor Area	146 01 M2	201 83 M2	55 82 M2	Deviated
3	Second Floor Area	146 01 M2	201 83 M2	55 82 M2	Deviated
4	Third Floor Area	146 01 M2	201 83 M2	55 82 M2	Deviated

(4)The Assistant Executive Engineer, Unit-25 of the Greater Chennai Corporation of Chennai, has issued Lock and Seal Notice dated 09.10.2020 to each of the petitioners and it is followed by three De-Occupation Notices dated 12.11.2020 and challenging the Locking and Sealing as well as De-Occupation Notices, the present writ petitions are filed.

(5)Ms.Y.Kavitha, learned counsel for the petitioners has drawn the attention of this Court to the typed set of documents and also on instructions would submit that challenging the said Notices, special revisions/appeals under Section 80-A of the Town and Country Planning Act, 1971 have been filed before the 1st respondent on 28.09.2020 along with prayer for interim reliefs and the appeals are yet to be entertained and in the interregnum, the 3rd respondent and his subordinate officials are hurriedly proceeding to lock and seal the on-going construction and she would further add that since deviations are minimal in nature and that the petitioners are also undertook to set right the same and bring it within the ambit

of Planning Permission, this Court may grant appropriate relief.

- (6) Mr. K. Raja Srinivas, learned Standing counsel appearing for respondents 2 and 3 and would submit that in the light of the interim orders passed in WP.No.14494/2020, action has been taken strictly in accordance with law. He would further add that once the Planning Permission is obtained, the construction is expected to be strictly in accordance with the sanctioned plan and deviation has been noted on inspection and due process of law is being followed and the petitioners cannot make any grievance and prays for dismissal of these writ petitions.
- (7) The learned counsel for the petitioners, in response to the said submission, would submit that the petitioners may be permitted to submit a detailed representation with technical details to the 3rd respondent for setting right the deviation and bring it within the ambit of the Planning Permission and it can be directed to be considered by the 3rd respondent in accordance with law and till such time, the 3rd respondent as well as the subordinate officials may defer further proceedings.
- (8) This Court has considered the rival submissions and also perused the materials placed before it.
- (9) Though the petitioners have prayed for larger reliefs, this Court, in the light of the submissions made by the learned counsel for the petitioners on instructions, permits the petitioners to submit representations with technical details as to setting right of the deviation and bring the on-going construction within the ambit of the Planning Permission within a period of two weeks from the date of receipt of a copy of this order and upon receipt of the same, the 3rd respondent is directed to put the petitioner in WP.No.14494/2020 on notice and thereafter, consider and dispose of the said representations in accordance with law within a further period of four weeks thereafter and communicate the decision taken to the petitioners as well as to the petitioner in WP.No.14494/2020.

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(10)The writ petitions stand disposed of accordingly. No costs.
Consequently, the connected miscellaneous petitions are closed.

Sd/--
Asst.Registrar (CS III)

/true copy/
Sub Asst. Registrar

ap

To

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

2.The Commissioner
The Corporation of Chennai
Rippon Buildings
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3.Executive Engineer/Z-IX
Greater Chennai Corporation
Zone-IX, No.1, Lake Area,
4th Cross Street, Nungambakkam
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+1 cc to M/s.K.Raja Srinivas Advocate sr39734

WP.Nos.17851, 17860 & 17863/2020

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