

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.28565 of 2019
and
W.M.P. No. 28305 of 2019

A.S. Lakshmi

... Petitioner

Vs

1. The Principal Secretary to Government,
Housing and Urban Development Department,
Fort St. George,
Chennai - 600 009.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
No. 1, Gandhi Irwin Road,
Egmore,
Chennai - 600 008.
3. The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai - 600 003.
4. The Regional Deputy Commissioner - Central,
Corporation of Chennai,
Zonal Office - 8,
Shenoy Nagar,
Chennai - 600 030.
5. The Assistant Commissioner,
Greater Chennai Corporation,
Zone - 9,
Trustpuram,
Kodambakkam,
Chennai - 600 024.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, restraining the Respondents more particularly Respondents 3 to 5 from interfering with the peaceful possession and enjoyment of the property situated at 22/8, 4th Cross Street, Trustpuram, Kodambakkam, Chennai - 600 024 by the Petitioner and her tenant to run her hospital pending disposal of the Petitioner's application dated 11.12.2017 under Section 113C of the Tamil Nadu Town and Country Planning Act, 1971, by the Second Respondent.

For Petitioner : Mr. S.R. Raghunathan for
Mr. Adithya Reddy

For Respondents : Mr. P.S. Sivashanmuga Sundaram,
Special Government Pleader (for R1)

Mrs. P. Veena Suresh (for R2)

Mr. K. Raja Srinivas (for R3 to R5)

O R D E R

(Order of the court was made by N.KIRUBAKARAN.J.,)

It is seen from the records that the Petitioner has put up a construction after getting approved plan for ground + 3 floors for residential purpose vide receipt No. B/3312/177/87 dated 02.06.1987. However, Fourth Floor has been constructed. Since the building consists of ground + 4 floors, it attracts the norms of Multi-Storeyed Building category as per Development Regulation and the entire building has been used as hospital building. Subsequently, when the Chennai Metropolitan Development Authority has inspected the property on 05.09.2018, it is ascertained that the said commercial building consists ground + 4 floors (4th Floor comprising of A/c sheet roofing) and the same was used as hospital building, though the permission has been sought only for ground + 3 floors.

2.Heard Mr. S.R. Raghunathan, learned Counsel appearing for the Petitioner, Mr. P.S. Sivashanmuga Sundaram, learned Special Government Pleader appearing for the First Respondent, Mrs. P. Veena Suresh, learned Standing Counsel appearing for the Second Respondent and Mr. K. Raja Srinivas, learned Standing Counsel appearing for the Third to Fifth Respondents.

3.The Learned Counsel for the Petitioner submits that the Fourth Floor has been removed. However, it is evident from the

Counter Affidavit filed by the Chennai Metropolitan Development Authority that the Fourth Floor consists of A/c sheet roofing. However, the learned Counsel for the Petitioner submits that even if there is any A/c sheet roofing, the same will be removed. Further, he submitted that an application under Section 113-C of the Tamil Nadu Town and Country Planning Act, 1971, has been filed and the same is pending before the Second Respondent.

4. Further, the learned Counsel for the Petitioner would submit that as per the order dated 30.10.2018 in W.P. No. 27767 of 2018 passed by the Division Bench of this Court, final orders are not passed in the applications given under Section 113-C of the Tamil Nadu Town and Country Planning Act, 1971 in view of the challenge with regard to the various Government Orders issued under Section 113-C of the Tamil Nadu Town and Country Planning Act, 1971, before the Hon'ble First Bench of this Court.

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.

6. With the above observations, this Writ Petition is disposed of. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ay

To

1. The Principal Secretary to Government,
Housing and Urban Development Department,
Fort St. George,
Chennai - 600 009.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
No. 1, Gandhi Irwin Road,
Egmore,
Chennai - 600 008.

3. The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai - 600 003.
4. The Regional Deputy Commissioner - Central,
Corporation of Chennai,
Zonal Office - 8,
Shenoy Nagar,
Chennai - 600 030.
5. The Assistant Commissioner,
Greater Chennai Corporation,
Zone - 9,
Trustpuram,
Kodambakkam,
Chennai - 600 024.

+1 cc to M/s.P.Veena Suresh, Advocate, S.R.No.18677

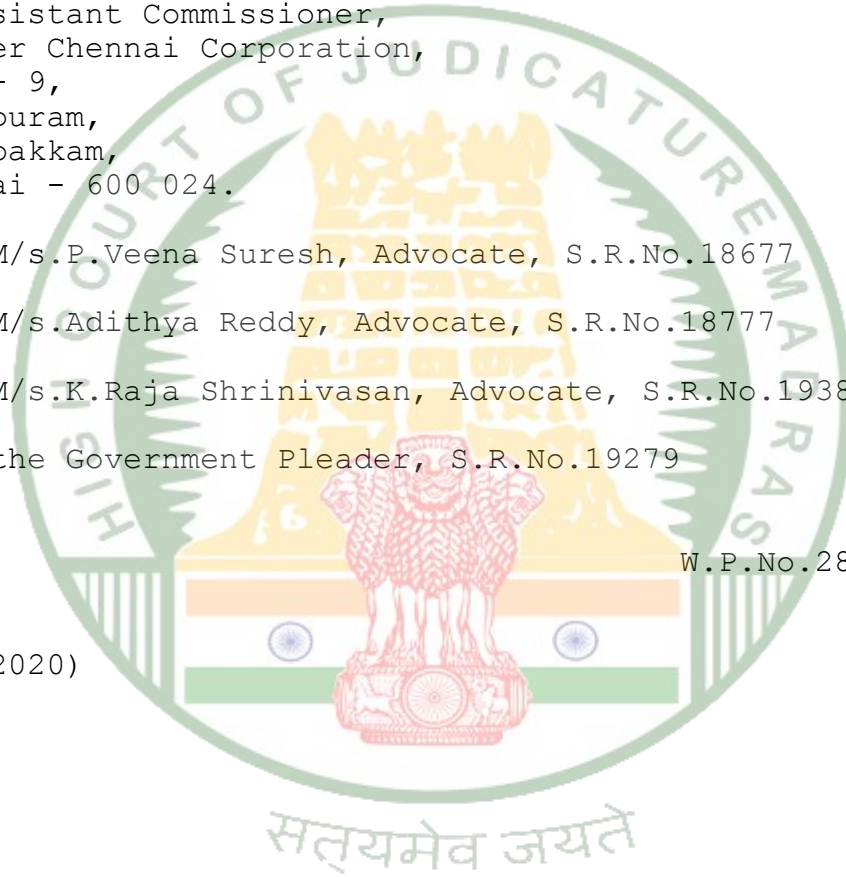
+1 cc to M/s.Adithya Reddy, Advocate, S.R.No.18777

+1 cc to M/s.K.Raja Shrinivasan, Advocate, S.R.No.19388

+1 cc to the Government Pleader, S.R.No.19279

W.P.No.28565 of 2019

RSI (CO)
RN(22/05/2020)



WEB COPY