

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 24.03.2021
CORAM
THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN
W.P.No.6952 of 2021

Cameo Corporate Services Limited
rep.by its Senior Manager-Legal
K.Ramanathan
Subramanian Building,
No.1, Club House Road,
Chennai 600 002.

.. Petitioner

Versus

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

2.The Chennai Metropolitan Development Authority,
rep.by its Member Secretary,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai 600 008.

3.Mr.Subramanian Vairavan

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents no.1 and 2 to remove the lock and seal fixed in the premises at Door no.1, Club House Road, Chennai- 600 002, in respect of 6 toilets and stairs leading to 3 Generators in the ground floor of the above building pending disposal of the appeal dated 17.02.2021 filed by the petitioners before the 1st respondent.

For Petitioner

:Mr.Srinivasan for

Mr.S.Sithirai Anandam

For RR 1

: Mr.S.Kamalesh Kannan

Government Advocate

For RR2

: Ms.P.Veena Suresh

ORDER

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

Heard the submissions of Mr.R.Srinivas, learned counsel assisted by Mr.Sithirai Anadam, learned counsel appearing for the petitioner and perused the materials.

2. The matter in issue pertains to permission to use the Washroom and Generators by the petitioner Company and Ms.Veena Suresh, learned Standing Counsel accepts notice on behalf of the 2nd respondent.

3. It is the case of the petitioner that the premises situate at Door No.1. Club House Road, Chennai 600 002, comprised in old S.F.No.33(part) and present S.F.No.314/12, Block No.9, admeasuring an extent of six grounds and 1689 sq.ft with a superstructure comprised in the form of basement, grounds and five floors, with a total constructed area of approximately 60,000 sq.ft, belong to the family of Thiru.S.P.Vairavan Chettiar.

4. The wife and the children of the said person have entered into an Memorandum of Undertaking (family arrangement) dated 24.08.1994 and in terms of the said Family Arrangement, the basement and ground floor of the building was allotted in favour of the wife of Mr.S.P.Vairavan Chettiar, namely, Ms.Valiammai and the first floor of the said building was allotted to the 3rd respondent, who is the son of Mr.S.P.Vairavan Chettiar and the second, third, fourth and fifth floors of the said building were allotted to the other children of Mr.S.P.Vairavan Chettiar and that apart, undivided share of 1/6th share in the land have also been allotted.

5. It is the case of the petitioner that Ms.Valliammai sold the basement floor of the building allotted to her along with Mr.AL.Vairavan and Mr.V.V.Venkatachalam, to whom she had settled her property, in favour of the petitioner Company, through a registered Sale Deed bearing Doc.No.1599 of 2004, dated 15.12.2004, registered on the file of the Office of the Sub Registrar, Triplicane and that apart, Mr.VE.A.Alagappan, sold his share in the said building in favour of the petitioner's Company through a registered Sale Deeds bearing Doc.Nos.1598 of 2004 and 1497 of 2008, dated 15.12.2004 and 04.12.2008 respectively, registered on the file of the office of the Sub Registrar, Triplicane.

6. It is the specific case of the petitioner that on account of cyclone and inundation, the Generators put up in the ground floor have to be necessarily shifted by erecting a platform and that since there are more than hundred employees are working in the petitioner Company, they have to be provided with basic amenities of washrooms and it cannot be considered as a deviation or unauthorised using of the premises.

7. Mr.Raja Srinivas, learned Standing Counsel appearing for the 2nd respondent has sent a notice dated 29.11.2019, pointing out the same as an unauthorised construction and it is followed

by Locking, Sealing and Demolition Notice dated 09.01.2020. In respect to the notices, also submitted his response dated 14.03.2020 and through yet another representation dated 11.02.2021, praying for lifting of the lock and seal, put up, especially on the toilet / washroom and further pointed out that due to non availability of the power back-up facility, business operation of the petitioner Company got affected, which in turn affects the welfare of the employees of the petitioner Company and challenging the Locking, Sealing and Demolition Notice dated 09.01.2020, also filed Special Revision / Appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 before the 1st respondent and the same was received and acknowledged, vide reference No.EC/S-I/15593/2019, dated 09.01.2020.

8. The primordial submission made by the learned counsel appearing for the petitioner is that since more than 100 persons are employed by the petitioner Company and most of them are female employees, on account of the lock and seal of the washroom, they have been deprived of minimum basic amenity and therefore, this Court may pass appropriate orders by directing the 2nd respondent to remove the lock and seal put up on the washroom, at the first instance and also prays for appropriate direction, directing the 1st respondent to accord priority and dispose of the main appeal / Special Revision, itself, in accordance with law, at the earliest time.

9. This Court heard the submissions of Mr.Kamalesh Kannan, learned Government Advocate, who appears for the 1st respondent and would submit that if this Court passes any direction, the Special Revision / Appeal preferred by the petitioner would be disposed of as expeditiously as possible, in accordance with law.

10. The learned Standing Counsel appearing for the 2nd respondent would submit that in the light of the representation received from the 3rd respondent, an inspection was caused and they have noted certain deviations and Lock and Seal Notice came to be issued and the same is also the subject matter of challenge before the 1st respondent.

11. This Court has carefully considered the rival submissions and also perused the materials placed before it.

12. The petitioner in this Writ Petition prays for lifting of the lock and seal fixed on the premises, in respect of toilets and staircase leading to Generators room in ground floor of Door No.1, Club House Road, Chennai 600 002. It is relevant to extract the prayer sought for by the petitioner in the Special Revision / Appeal, pending before the 1st respondent:

"Hence the appellant most humbly prays that the

Hon'ble Principal Secretary, Housing and Urban Development Department, Government of Tamil Nadu, Chennai may be pleased to:

a) to set aside the Locking & Sealing and Demolition Notice issued by the respondent viz., letter No.Ec/S-I/15593/2019, in respect of the temporary steel structure for placing the Generators and new toilets beneath the same in the property more fully described in the schedule hereunder;

b) to direct the respondent to remove the locking and sealing of the toilets and temporary steel structure for Generators immediately;

c) to direct the respondent to revoke the locking and sealing and demolition notice referred above and thereby regularize the scheduled premises and thus render justice;

d) The appellants may be given an opportunity of personal hearing before deciding the appeal petitioner, and thus render justice.

Dated at Chennai on this 17th day of February, 2021.''

13. The primordial grievance expressed by the learned counsel appearing for the petitioner is that on account of the lock and seal put up on the staircase leading to the Generators room, as well as six washrooms, the petitioner Company as well as the employees are put to untold hardships and difficulties and prays for appropriate direction.

14. This Court, taking into consideration the rival submissions and also perusal and consideration of the materials placed, permits the petitioner to file an application for ad-interim direction under Section 80-A (3) of the Tamil Nadu Town and Country Planning Act, as to the de-sealing of the washroom and stairs leading to the Generators room, within a period of one week from the date of receipt of a copy of this order / uploading of the order in the Website and upon receipt of the same, the 1st respondent is directed to take up the petition for interim relief at the first instance and give a disposal of the same on merits and in accordance with law in an objective manner, preferably within a further period of one week

thereafter and communicate the decision taken to the petitioner. It is also open to the 1st respondent to accord priority to the main revision / appeal itself and give a disposal of the same in accordance with law, by adhering to the principles of natural justice, as expeditiously as possible.

15. The Writ Petition stands disposed of with the above observations. No costs.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

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To

- 1.The Principal Secretary,
Housing and Urban Development Department,
Government of Tamil Nadu,
Secretariat, Fort St.George,
Chennai 600 009.
- 2.The Chennai Metropolitan Development Authority,
rep.by its Member Secretary,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai 600 008.

+1CC TO MR.S.SITHIRAI ANANDAN, ADVOCATE, SR.NO. 19502
+1CC TO M/S.P.VENASURESH, ADVOCATE, SR.NO. 19251

W.P.No.6952 of 2021

DCH(CO)
KKN 20.04.2021

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