

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 31.03.2021
CORAM
THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN
WP.No.8486/2021 & WMP.No.9042/2021

Tmt.Lakshmi Ammal

.. Petitioner

Versus

- 1.The Member Secretary,
Chennai Metropolitan Development
Authority, No.1, Gandhi Irwin Road
Egmore, Chennai 600 008.
- 2.The Chief Planner, Regularization Unit
Chennai Metropolitan Development
Authority, No.1, Gandhi Irwin Road
Egmore, Chennai 600 008.
- 3.The Senior Planner [EC]
Chennai Metropolitan Development
Authority, No.1, Gandhi Irwin Road
Egmore, Chennai 600 008.
- 4.The Commissioner
Corporation of Chennai,
Rippon Buildings, Chennai 600 003.
- 5.The Assistant Executive Engineer
Unit-38, Zone-13, Adyar,
Chennai 600 020.

6.S.Natarajan

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records relating to the proceedings in Letter No.Reg.III/B6/568/2001 dated 04.03.2021 issued by the 1st respondent and quash the same as illegal.

For Petitioner : Mr.P.Kannan Kumar

For RR 1 to 3 : Mrs.P.Veena Suresh
Standing Counsel

For RR 4 & 5 : Mr.K.Raja Srinivas
Standing Counsel

ORDER

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

- (1) By consent, the writ petition is taken up for final disposal and is disposed of by this order.
- (2) Mr.s.P.Veena Suresh, learned Standing counsel accepts notice on behalf of respondents 1 to 3 and Mr.K.Raja Srinivas, learned Standing counsel accepts notice on behalf of respondents 4 and 5.
- (3) The husband of the petitioner, on an earlier occasion, filed an application for regularization bearing Registration No.14154 dated 13.12.2000 before the 1st respondent who vide communication dated 19.02.2015 bearing Letter No.Reg.III/568/2001, directed him to furnish the evidence as to the usage of the building in question that it existed prior to 28.02.1999. The husband of the petitioner, responding to the said communication, submitted a detailed representation dated 09.03.2015 to the 1st respondent by enclosing necessary documents to show that the construction in the form of a bathroom on the western side, came into existence prior to the said cut-off date
- (4) The learned counsel for the petitioner would submit that there is a private dispute between the husband of the petitioner and the 6th respondent and the 6th respondent, on an earlier occasion, filed WP.No.13092/2016 against the official respondents as well as against the husband of the petitioner, praying for appropriate action against alleged unauthorised construction put up by the 6th respondent therein - husband of the petitioner herein and it came to be disposed of on 10.06.2016, in the light of the fact that the private respondent has already filed a civil suit in OS.No.6878/2013 on the file of the Court of II Additional City Civil Judge, at Chennai.
- (5) The primordial submission made by the learned counsel for the petitioner is that a Civil Revision Petition has also been filed by the private respondent in CRP [PD] No.3224/2018 and an interim order, staying the all further proceedings in the suit filed by the 6th respondent, is subsisting and further drawn the attention of this Court to the impugned Communication dated 04.03.2021 and would submit that despite the husband of the petitioner enclosing relevant and authenticated documents vide his representation dated 09.03.2015, the same has not been considered objectively and prays for interference.

- (6) Mr.K.Raja Srinivas, learned Standing counsel appearing for respondents 4 and 5 would submit that in the light of sub-section 6 of Section 113-A of the Town and Country Planning Act, 1971, the petitioner is having an alternative remedy and on that score alone, the writ petition is not maintainable.
- (7) This Court has considered the rival submissions and also perused the materials placed before it.
- (8) It is relevant to extract Section 113-A of the Town and Country Planning Act, 1971:-
- (9) This Court, taking into consideration the above cited statutory provision, grants liberty to the petitioner who is the wife of late Ayyaswamy, to prefer an appeal u/s.113A[6] of the Town and Country Planning Act, 1971, along with the petition for interim relief, to the Principal Secretary to Government of Tamil Nadu, Housing and Urban Development Department, Secretariat, Fort St George, Chennai 600 009, within a period of two weeks 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 Appellate Authority/the Government may entertain the appeal along with the petition for interim relief, if the papers are otherwise in order and after putting on notice, the petitioner as well as the private respondent, shall take up the petition for interim relief and give a disposal within a period of two weeks from the date of entertainment of the said appeal and the Appellate Authority is also at liberty to expedite the final disposal of the main appeal also and it is made clear that till the disposal of the petition for interim relief by the Appellate Authority/Government, the respondents 1 to 3/CMDA as well as the Corporation of Chennai/respondents 4 and 5, shall defer further decision as to the demolition of the alleged offending construction.
- (10) The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

AP

To

- 1.The Member Secretary,
Chennai Metropolitan Development
Authority, No.1, Gandhi Irwin Road
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- 5.The Assistant Executive Engineer
Unit-38, Zone-13, Adyar,
Chennai 600 020.

+cc to Mr.P.Veena Suresh,Advocate,SR.21297
+cc to Mr.P.Kannan kumar,Advocate,SR.21618
+cc to M/s.M.R.Kuyilan,Advocate,SR.21998

PL(CO)
baf 05/05/2021

WP.No.8486/2021

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