

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

W.P.Nos.9002 & 9007 of 2021
and
W.M.P.Nos.9536, 9538, 9540 & 9541 of 2021

C.Veeraraghavan ... Petitioner
in W.P. No. 9002 of 2021

R.Maheswari ... Petitioner
in W.P. No. 9007 of 2021

Vs

1. The Secretary to Government,
Housing and Urban Development,
Fort St. George,
Chennai - 600 009.

2. The Commissioner,
Thiruverkadu Municipality,
No. 1, Sivan Koil Street,
Thiruverkadu,
Chennai - 600 007.

... Respondents in both W.P.s

COMMON PRAYER : Writ Petition filed under Article 226 of the Constitution of India, 1950 praying to issue a Writ of Certiorarified Mandamus, calling for the records of the Second Respondent made in impugned Letter No. 693/2018/F1 dated 01.03.2021 and quash the same as illegal and arbitrary and non-est in law and forbear the Second Respondent from lock and sealing of the Petitioner's Flat No. S1 comprised in Second Floor, bearing Plot No. 81A situated at Moovendhar Nagar, Second Street, Noombal, Chennai - 600 077.

For Petitioners : Mr. B.Vijay
(in both W.P.s)

For Respondents : Mr. M.Elumalai,
(in both W.P.s) Additional Government Pleader for R1
Mr. P. Srinivas for R2

COMMON ORDER

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

The matter was heard through "Video Conference".

2.The Petitioners are owners of the property in Flat No. S1 comprised in Second Floor, bearing Plot No. 81A situated at Moovendhar Nagar, Second Street, Noombal, Chennai - 600 077 which is coming under Thiruverkadu Municipality. The Petitioner in W.P. No. 9002 of 2021 has got right over 205 sq.ft with plinth area having purchased through sale deed dated 09.07.2014.

3.It is stated by Mr.B.Vijay, Learned Counsel for the Petitioners that due to the dispute between the promoter and one of the purchasers, the entire super structure put up by the promoter is sought to be demolished on the ground that there is a deviation. The Petitioners are also one of the victims because of the dispute between the promoter and one of the purchasers. The authorities visited the Petitioner's premises and they found out various deviations and issued lock and seal and demolition notice dated 01.03.2021. Aggrieved over the same, the Petitioners have filed a revision before the First Respondent under Section 80-A of the Town and Country Planning Act. However, no stay has been granted and therefore, the Petitioners are compelled to approach this Court by challenging the original order dated 01.03.2021.

4.Heard Mr.B.Vijay, Learned Counsel for the Petitioner, Mr. M.Elumalai, Learned Additional Government Pleader appearing for the First Respondent and Mr. P. Srinivas for the Second Respondent.

5.Admittedly, the Petitioners have filed a revision under Section 80-A of the Town and Country Planning Act and the same is pending before the First Respondent. Though it is contended by Mr.M.Elumalai, Learned Additional Government Pleader appearing for the First Respondent that there is no power under the Act for the First Respondent to grant interim order or interim stay against the impugned order, it is well settled position of law that when the authority has got power and jurisdiction to set aside the main order, the said authority has got ancillary or auxiliary or implied power to grant interim order. If no interim order is granted, the very purpose of filing the Revision would be frustrated since the authority has got power and jurisdiction to grant interim order.

6.Though it is insisted yesterday by Mr. B.Vijay, Learned Counsel for the Petitioner that de-occupation notice has been given for the reasons stated above, this Court stays the locking and sealing order as well as de-occupation notice pending disposal of the revision.

7.This Writ Petition is disposed of in the above terms. The First Respondents is directed to dispose of the revision within a period of three months from the date of receipt of a copy of this order. Till the revision is disposed and the copy of the same is served upon the Petitioners, the impugned order as well as de-occupation notice in R.O.C.No.693/2018/F1 dated 07.04.2021 shall be stayed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Housing and Urban Development,
Fort St. George,
Chennai - 600 009.
2. The Commissioner,
Thiruverkadu Municipality,
No. 1, Sivan Koil Street,
Thiruverkadu,
Chennai - 600 007.

+4cc to Mr.B.Vijay, Advocate, S.R.No.22865 & 22866
+1cc to the Government Pleader, S.R.No.22496

W.P.Nos.9002 & 9007 of 2021 and
W.M.P.Nos.9536, 9538, 9540 & 9541 of 2021

PL(CO)
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