



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2021

CORAM :

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

W.P.No.12428 of 2021
and
W.M.P.No.13215 of 2021

D.Santhakumar

... Petitioner

Vs

- 1.The Principal Secretary to Government,
Housing and Urban Development Department
Secretariat, Chennai-9.
- 2.The Chennai Metropolitan Development Authority
Rep. By its member- Secretary
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008.
- 3.The Greater Chennai Corporation,
Rep. By its Commissioner,
Rippon Building, Chennai-3.
- 4.The Assistant Engineer,
The Greater Chennai Corporation,
AE/DN-95, 2nd Cross Street (East), Pulla Avenue,
Shenoy Nagar, Chennai-600 030.
- 5.The Assistant Executive Engineer,
The Greater Chennai Corporation,
Unit 21, 2nd Cross Street (East), Pulla Avenue,
Shenoy Nagar, Chennai-600 030.
- 6.The Executive Engineer,
The Greater Chennai Corporation,
Zone-08, 2nd Cross Street (East), Pulla Avenue,
Shenoy Nagar, Chennai-600 030. ...Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 2nd respondent to process the application of the petitioner for regularize the revised plan under building regulation Scheme 2017 vide Receipt No.CMDA/Reg-113C/2245/2021 dated 10.05.2021.



WEB COPY

For Petitioner : Mr.Arivazhagan

For Respondents :

For R1 : Mr.M.Venkateswaran
State Government Counsel

For R2 : Mr.Karthik Rajan

For R3 to R6 : Mr.M.Ganesan

ORDER

(Order of the Court was passed by N.KIRUBAKARAN, J)

The Petitioner is the owner of the property of bearing Door No.1A/27, Kumarasamy Nagar, Main Road Villivakkam, Chennai-600 049. He made a construction in the year 2003 and he has been residing in the said premises. The respondents three to six issued notice to the petitioner to produce the approved plan alleging that there is a deviation in the construction made by the petitioner and the nature of the construction has been shifted from residential to commercial apart from unauthorised 2nd floor made by the petitioner. Consequently, De-occupation notice has been issued by the authorities on 08.01.2020 under Section 56 and 57 of the Town and Country Planning Act 1971. Against the De-occupation notice, the petitioner has preferred an appeal before the 1st respondent under Section 80(A) of the Town and Country Planning Act 1971 on 15.02.2021 and the same is pending before the 1st respondent.

2.When things stand so, the petitioner made an application for revised plan to regularize vide receipt No.CMDA/Reg-113C/2245/2021 dated 10.05.2021, before the 2nd respondent and the said application is pending before the 2nd respondent. Since, no order has been passed, the petitioner has come before this Court.

3.Heard Mr.S.Arivazhagan, learned counsel appearing for the petitioner, Mr.M.Venkateswaran, learned State Counsel appearing for the 1st respondent, Mr.Karthik Rajan, learned Standing Counsel appearing for the 2nd respondent and Mr.M.Ganesan, learned Standing Counsel appearing for the respondents 3 to 6.

4. Eventhough, Mr.Arivazhagan, learned Counsel for the Petitioner submitted that there is a regularization application filed under Section 113-C of the Town and Country Planning Act,1971, Mr.M.Venkateswaran, learned State Government Counsel appearing for the First Respondent would submit that the Government Order issued under Section 113 of the Town and Country Planning Act, 1971 has been stayed before this Court and therefore, no final order could be passed, even though application could be processed.



5. In view of the above said position, even if the 2nd respondent is directed to process the application for revised plan, however as per the earlier stay order passed by this Court staying the G.O. issued under Section 113 of Town and Country Planning Act, 1971, no final order could be passed. Since, no final order could be passed in the application for revised plan, it is appropriate to direct the 1st respondent to pass order, after hearing the parties in the appeal filed by the petitioner against de-occupation notice before the 1st respondent on 15.02.2021 within a period of eight weeks from the date of receipt of a copy of this order.

6. Though there is a provision for granting interim order by the 1st respondent, in the petitioner's pending appeal, it is appropriate for this Court to protect the interest of the petitioner till the disposal of the appeal by the 1st respondent. In view of that, the respondents are prohibited from taking any coercive steps based on the De-occupation notice till the disposal of the appeal and the order is served upon the Petitioner.

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

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

rri/ay

To

1. The Principal Secretary to Government,
Housing and Urban Development Department
Secretariat, Chennai-9.
2. The Member Secretary
The Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008.
3. The Secretary,
The Greater Chennai Corporation,
The Commissioner,
Rippon Building, Chennai-3.



WEB COPY

4.The Assistant Engineer,
The Greater Chennai Corporation,
AE/DN-95, 2nd Cross Street (East), Pulla Avenue,
Shenoy Nagar, Chennai-600 030.

5.The Assistant Executive Engineer,
The Greater Chennai Corporation,
Unit 21, 2nd Cross Street (East), Pulla Avenue,
Shenoy Nagar, Chennai-600 030.

6.The Executive Engineer,
The Greater Chennai Corporation,
Zone-08, 2nd Cross Street (East), Pulla Avenue,
Shenoy Nagar, Chennai-600 030.

+1cc to Mr.S.Arivazhagan, Advocate SR.No.27557

W.P.No.12428 of 2021

and

W.M.P.No.13215 of 2021

PL(CO)
GMY(22/07/2021)