



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2021

CORAM :

THE HON'BLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

W.P.NO.16736 OF 2021
AND
W.M.P.NOS.17707 & 17708 OF 2021

1.M.Nirmala Devi
2.K.Mahaveer Chand

... Petitioners

Vs

1.The Commissioner,
Greater Chennai Corporation,
Chennai - 600 003.

2.The Executive Engineer Enforcement,
Enforcement - Regional Central,
2nd Cross Street (East),
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.

3.The Assistant Executive Engineer,
Regional Deputy Commissioner Office/Central,
Enforcement Cell, 2nd Cross Street (East),
Pulla Avenue, Shenoy Nagar,
(Opp. To Thiru-Vi-Ka-Park),
Chennai - 600 030.

4.The Assistant Executive Engineer,
Zone 8 - Regional Central,
2nd Cross Street (East),
Pulla Avenue, Shenoy Nagar,
(Opp. To Thiru-Vi-Ka-Park),
Chennai - 600 030.

5.The Government of Tamil Nadu,
Represented by its Secretary,
Housing and Urban Development Department,
Secretariat, Fort St.George,
Chennai.

(R5, suo motu, impleaded vide order dated
12.08.2021 made in W.P.No.16736 of 2021)

... Respondents



PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance a Writ of Certiorarified Mandamus, calling for the records relating to the De-occupation Notice dated 09.11.2020 in reference no.Z.08.C.No./048/2020 issued by the Respondents 2, 3 and 4 in respect of the Petitioners' property bearing Door No.1, New No.2, MTH Road, Villivakkam, Chennai - 600 049 and quash the same by further directing the Corporation authorities not to interfere with the Petitioners' building as they did not violate any of the above provisions under the Tamil Nadu Town and Country Planning Act.

For Petitioners : Mr.R.Manickavel.

For Respondents : Mr.K.Raja Shrinivas,
Standing Counsel for R1 to R4.

Mrs.R.Anitha, Government
Advocate for R5.

O R D E R

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

The matter has been heard through "Video Conference".

2.The Petitioners have come before this Court seeking Writ of Certiorarified Mandamus, calling for the records relating to the De-occupation Notice dated 09.11.2020 in reference no.Z.08.C.No./048/2020 issued by the Respondents 2, 3 and 4 in respect of the Petitioners' property bearing Door No.1, New No.2, MTH Road, Villivakkam, Chennai - 600 049 and quash the same by further directing the Corporation authorities not to interfere with the Petitioners' building as they did not violate any of the above provisions under the Tamil Nadu Town and Country Planning Act.

3.The Petitioners jointly own the property bearing Door No.1, New No.2 situated at MTH Road, Villivakkam, Chennai - 49 and let out the building to M/s.Ganapathy Bhavan. Since some of the portions of the building has got damaged, alteration works have been carried out in the said building without involving any masonry work. However, on the basis of false complaints, the Respondents have issued locking & sealing and demolition notice dated 09.10.2020 and de-occupation notice dated 09.11.2020. The First Petitioner has given reply to the said notices on 22.10.2020 and on 18.11.2021. Moreover, an Appeal has been



filed against the de-occupation notice dated 09.11.2020 before the Secretary to Government, Housing and Urban Development Department under Sections 79, 80A and 113C of the Tamil Nadu Town and Country Planning Act and the same is pending. After having filed the Appeal, the petitioners have come before this Court challenging the said de-occupation notice.

4. Heard Mr.R.Manickavel, Learned Counsel for the Petitioners and Mr.K.Raja Shrinivas, Learned Standing Counsel for the Respondents 1 to 4.

5. Since the First Petitioner has filed an Appeal against the impugned notice before the Secretary to Government, Housing and Urban Development Department, this Court, suo motu, impleads, "The Government of Tamil Nadu, Represented by its Secretary, Housing and Urban Development Department, Secretariat, Fort St. George, Chennai", as Fifth Respondent to the proceedings and Mrs.R.Anitha, Learned Government Advocate takes notice on behalf of the newly impleaded Respondent.

6. The Petitioners would contend that after selling portion of the property to the School, three story building has been constructed by the School out of the sale transaction between the School and the Petitioners and it has been utilized by the School, the Petitioners would contend. Be that as it may. Since the petitioners have come before this Court challenging the de-occupation notice dated 09.11.2020 and an Appeal has been filed under Sections 79, 80A and 113C of the Tamil Nadu Town and Country Planning Act against the said notice and the same is pending before the newly impleaded Fifth Respondent, this Court directs the Fifth Respondent to dispose of the said Appeal on merits as per law, after giving opportunity to the Petitioners and the person who gave complaint against the petitioners' construction at the earliest. Till the Appeal is disposed, no coercive steps shall be taken against the Petitioners.

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

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner,
Greater Chennai Corporation,
Chennai - 600 003.

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(Opp. To Thiru-Vi-Ka-Park),
Chennai - 600 030.

5.The Secretary,
Government of Tamil Nadu,
Housing and Urban Development Department,
Secretariat, Fort St.George,
Chennai.

+2ccs to M/S.R.Manickavel, Advocate, SR.NO.40171
+1cc to Government Pleader, SR.NO.40426

W.P.No.16736 of 2021
and
W.M.P.Nos.17707 & 17708 of 2021

GPL (CO)
PM/16/09/2021