



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM  
AND  
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P.NO.18335 OF 2021

Srijesh,

...Petitioner

.Vs.

1. The Secretary to Government,  
Housing and Urban Development Department,  
Secretariat, Fort St. George.,  
Chennai - 600 009.
2. The Commissioner,  
Corporation of Chennai,  
Ripon building,  
Chennai - 600 003.
3. The Executive Engineer,  
Zone 5 - Corporation of Chennai,  
No.62, Basin Bridge Road,  
Chennai - 600 021.
4. The Assistant Executive Engineer,  
Unit - 14, Corporation of Chennai,  
Chennai.
5. The Assistant Engineer  
Division 059, Corporation of Chennai,  
Chennai.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus forbearing the Respondents from initiating action against the "De-occupation" notice issued by the 3<sup>rd</sup> Respondent which also contains the signature of 4<sup>th</sup> and 5<sup>th</sup> Respondent in Letter No.Z.O.5.C.No./9142/1/2021 Dated 29/07/2021, pending disposal of the appeal filed under section 80A of Tamil Nadu Town and country Planning Act, 1971 dated 09.08.2021.



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For petitioner : Mr.Dr.G.Krishnamoorthy for  
Mr.A.Thirumaran

For respondents : Mr.C.Jayaprakash  
Govt. Counsel (for R1)  
Mr.Raja Shrinivas  
Standing Counsel  
(for R2 to R5)

#### ORDER

(The Order of the Court was made by K.KALYANASUNDARAM,J)

The prayer in the writ petition is to issue a Writ of Mandamus forbearing the respondents from initiating action against the "De-occupation" notice issued by the respondents 3 to 5 pending disposal of the appeal preferred under section 80A of Tamil Nadu Town and Country Planning Act, 1971 dated 09.08.2021.

2.The learned counsel appearing for the petitioner Mr.G.Krishnamoorthy would argue that aggrieved over the de-occupation notice, the petitioner has preferred an appeal before the first respondent on 09.08.2021. He would further submit that it would suffice, if a suitable direction is issued to the first respondent to dispose of the appeal in a time frame.

3.The learned Standing Counsel appearing for the respondents 2 to 5 would state that the building in dispute is in a dilapidated condition and hence, the respondents issued de-occupation notice and if any untoward incident is happened pending appeal, the official respondents will be held responsible.

4.In reply, the learned counsel for the petitioner drawing attention of this Court to the affidavit filed by the petitioner dated 07.09.2021, submitted that the petitioner takes responsibility for indemnify the loss, if any thing happens in the building in dispute. The affidavit is placed on record.

5.It appears that with regard to the title dispute, a suit is also pending before the City Civil Court, Chennai. So, we refrain from expressing any opinion on title.

6.In the light of the above facts and considering the nature of prayer sought for in the writ petition, without expressing any opinion on the merits of the matter, this Court directs the first respondent to dispose of the appeal preferred by the petitioner, dated 09.08.2021, on merits and in accordance with law, after affording opportunity of personal hearing to the



petitioner, within a period of eight weeks from the date of receipt of a copy of this order. Till then, the respondents shall not precipitate the matter. No costs.

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Sd/-  
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

skn

To

1. The Secretary to Government,  
Housing and Urban Development Department,  
Secretariat, Fort St. George.,  
Chennai - 600 009.
2. The Commissioner,  
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Chennai.
5. The Assistant Engineer  
Division 059, Corporation of Chennai,  
Chennai.

+1cc to Mr.A.Thirumaran, Advocate, S.R.No.45157  
+1cc to Mr.K.Raja Shrinivas, Advocate, S.R.No.45753  
+1cc to the Government Pleader, S.R.No.45549

W.P.N0.18335 of 2021

PCH(CO)  
CS/12/10/2021