



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.3455 of 2022 and WMP.No.3566, 3569 and 3570/2022

Venkat Ramanujam

... Petitioner

-vs-

1. The Government of Tamil Nadu
rep. by its Secretary,
Housing and Urban Development Department,
Fort St. George, Chennai-600 003.
2. The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai-600 003.
3. The Executive Engineer,
Zone-IX Mylapore Division,
Greater Chennai Corporation,
No.4, Lake Area, 4th Cross Street,
Nungambakkam, Chennai-600 034.
4. The Assistant Executive Engineer,
Zone-IX Mylapore Division,
Greater Chennai Corporation,
No.4, Lake Area, 4th Cross Street,
Nungambakkam, Chennai-600 034.
5. The Assistant Engineer,
Zone-IX Mylapore Division,
Greater Chennai Corporation,
No.4, Lake Area, 4th Cross Street,
Nungambakkam, Chennai-600 034.
6. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road, Egmore,
Chennai-600 008.

7. Vishwanathan Krishnan

... Respondents

Prayer: Writ Petition filed under Article 226 of the



Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent culminating in his impugned notice in and by which the petitioner's premises i.e. Pent House in the 3rd Floor at Door No.14/5, Old No.120, 3rd Floor, St.Ebbas Avenue, P.S.Sivaswamy Salai, Mylapore, Chennai-600 004 was locked and sealed by the respondents 2 to 5 on 03.02.2022, quash the same and to consequently, direct the respondents 2 to 5 to remove the locking and sealing of the petitioner's said premises so as to enable the petitioner and his family to occupy the same, pending disposal of the petitioner's application/appeal dated 10.09.2021 preferred before the 1st respondent under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 and the petitioner's Application dated 20.09.2021 made to the 6th respondent under the Building Regularization Scheme-2017.

For Petitioner : Mr.Arun Anbumani

For Respondents : Mr.K.V.Sajeev Kumar, Spl.G.P.
for R1
Mr.K.Raja Shrinivas for R2 to R5
Mrs.C.Sumathy for R6

ORDER

(Order of the Court was made by T.RAJA, J.)

Questioning the correctness of the impugned notice of the 2nd respondent, namely, The Commissioner, Greater Chennai, Corporation, Chennai, in and by which the petitioner's premises, namely, Pent House in the 3rd Floor at Door No.14/5, Old No.120, 3rd Floor, St.Ebbas Avenue, P.S.Sivaswamy Salai, Mylapore, Chennai-600 004 was locked and sealed by the respondents 3 to 5 on 03.02.2022 and for quashing the same with a consequential direction to the respondents 2 to 5 to remove the locking and sealing of the petitioner's said premises, so as to enable the petitioner and his family to occupy the same, pending disposal of the petitioner's application/appeal dated 10.09.2021 preferred before the 1st respondent under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 and the petitioner's Application dated 20.09.2021 made to the 6th respondent under the Building Regularization Scheme-2017, the present Writ Petition has been filed.

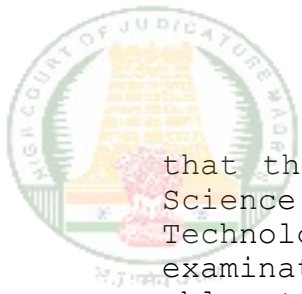
2. Learned Counsel appearing for the petitioner would submit that the petitioner has purchased the property-in-question, namely, Pent House in the 3rd Floor at Door No.14/120, (New No.14, Old No.120), 3rd Floor, St.Ebbas Avenue, P.S.Sivaswamy Salai, Mylapore, Chennai-600 004 together with undivided share of land more fully described in the schedule to



the sale deed dated 10.08.2007 registered as Document No.1989 of 2007 on the file of the Sub-Registrar, Mylapore. The petitioner claims to be the third owner of the property because the construction was put up in the year 1989 by M/s.N.C.Arya Snuff & Cigar Company who purchased the same from one Mrs.B.Saroja. While so, in the year 2009, the 7th respondent herein said to be a British Citizen purchased the Semi Basement Ground Floor and First Floor portions in the said building and thereafter, the 7th respondent is said to have let out his portions to one Mr.Shanmuga Subramanian and a Men's Hostel is being run there, without obtaining any permission from the concerned authorities. The 7th respondent has also executed a Power of Attorney in favour of the said Mr.Shanmuga Subramanian appointing him as his power agent. Thereafter, in the year 2018, the 7th respondent through his said Power Agent approached the petitioner asking him to sell away his property to him. Since the petitioner refused to sell away his property to him, he started giving lot of problems to him and his family members and they have also created several problems like not allowing him to park his vehicles in the building and they have also put up illegal and unauthorized construction to the extent of 1071 sq.ft. in the ground floor by encroaching into the car parking space.

3. Learned Counsel for the petitioner would further submit that not stopping with giving such unnecessary troubles to the petitioner and his family members, the 7th respondent and his power agent are said to have given a complaint to the respondents 3 to 5 alleging unauthorized construction put up by the petitioner in the 3rd floor of the building. Therefore, at the instance of the 7th respondent, an official from the 5th respondent visited the place-in-question and thereafter, the respondents 4 and 5 issued a Pre-Notice No.Zone-IX/DN-121/TPENF/04/2019 dated 16.10.2019 under Sections 56 and 57 and Section 85 of the Tamil Nadu Town and Country Planning Act, 1971, wrongly, as though some constructions were presently going on. In response to the same, the petitioner has submitted his detailed reply dated 31.10.2019 and also made an application under the Building Regularization Scheme-2017 to the 6th respondent under Section 113-C of the Tamil Nadu Town and Country Planning Act, 1971. Despite the pendency of his application with the 6th respondent under Section 113-C of the Act, the respondents 3 to 5 issued their Locking and Sealing and Demolition Notice bearing No.Zone-IX DN-121/TPENF/04/2019 dated 27.12.2019. Therefore, according to the petitioner, when an application filed by the petitioner under Section 113-C of the Tamil Nadu Town and Country Planning Act, 1971 challenging the pre-notice dated 16.10.2019 issued by the respondents 4 and 5 is pending, the Lock and Seal notice cannot be sustainable.

4. Learned Counsel for the petitioner would also submit



that the petitioner's daughter is pursuing her II year Computer Science Engineering at Loyola ICAM Engineering and Technical and Technology and she has been preparing for her on-line semester examination. In view of the lock and seal notice, she is not able to prepare for the Semester Examination. Even the petitioner's son who is pursuing 8th standard is also not able to take his belongings, as a result, the petitioner, his wife, his mother-in-law and his children were forcibly evicted out of their house and now they are taking shelter in their relatives house. The learned Counsel for the petitioner referring to Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, would submit that when an appeal dated 10.09.2021 filed under Section 80-A of the Act is pending, the petitioner shall not be asked to leave the premises because tomorrow for any reason the request of the petitioner is accepted, the inconvenience, agony and harassment going to be undergone by the petitioner cannot be compensated. Therefore, till the application/Appeal filed under Section 80-A of the Act is disposed of, the petitioner shall be allowed to use the Pent House in the 3rd Floor at Door No.14/5, Old No.120, 3rd Floor, St.Ebbas Avenue, P.S.Sivaswamy Salai, Mylapore, Chennai-600 004. Since the petitioner has submitted all the documents including the sale deed, the 1st respondent may be directed to dispose of the pending appeal on merits within 90 days as per Section 80-A of the Act, it is pleaded.

5. Mr.K.V.Sajeev Kumar, learned Special Government Pleader takes notice for the 1st respondent and Mr.K.Raja Shrinivas, learned Standing Counsel takes notice for the respondents 2 to 5 and Mrs.C.Sumathi, learned Counsel takes notice for 6th respondent.

6. Learned Standing Counsel for the respondents 2 to 5 would submit that the request made by the petitioner for regularization of the violated portion of the premises-in-question cannot be gone into by the 2nd respondent at this stage and it is only by the 6th respondent since the subject matter has been seized by the First Bench of this Court.

7. Learned Special Government Pleader for the 1st respondent would submit that there are about more than 2500 similar appeals pending as of now before the 1st respondent. Therefore, the 1st respondent would take considerable time to dispose of the same on merits.

8. Under such circumstances, we are of the view that in any event, since the first proviso to Section 80-A mandates the 1st respondent to dispose of the application for revision within 90 days from the date of filing, either they should have more than one Bench or two to dispose of the matters. However, it



appears that there is only one Bench to dispose of such matters. Right to speedy justice is part of Article 21 of the Constitution of India ensuring that no citizen is deprived of his life and liberty except as per the procedure established by law and that such procedure ensures both fair and expeditious conclusion of trial. The Apex Court in Kartar Singh Vs. State of Punjab [(1994) 3 SCC 569] held that speedy trial is a component of personal liberty. Thus, it is necessary that all who are involved in the justice dispensation system have to show dedicated diligence so that citizen will get speedy remedy. In the matter of denial of speedy justice, the Hon'ble Apex Court expressed concern at delay in disposal of cases and the concerned authorities were directed to do needful in the matter urgently before situation goes totally out of control. Useful reference can be had from Moses Wilson Vs. Kasturiba [AIR 2008 SC 379]. Therefore, the first respondent may constitute more Benches to dispose of the appeals under Section 80 of the Town and Country Planning Act for speedy disposal of appeals.

9. Keeping in view the above observation and also considering the facts and circumstances of the matter, more particularly, the fact that the petitioner's daughter is pursuing his Engineering in Loyola College and one of his sons is studying 8th standard and yet another son is away from the family for studies, we hereby direct the 3rd respondent to de-seal the premises-in-question and allow the petitioner and his family to stay there till the appeal preferred by the petitioner dated 10.09.2021 is disposed of on merits and in accordance with law.

10. With the above observation and direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

tsi

To

1. The Secretary,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George, Chennai-600 003.



2. The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai-600 003.

3. The Executive Engineer,
Zone-IX Mylapore Division,
Greater Chennai Corporation,
No.4, Lake Area, 4th Cross Street,
Nungambakkam, Chennai-600 034.

4. The Assistant Executive Engineer,
Zone-IX Mylapore Division,
Greater Chennai Corporation,
No.4, Lake Area, 4th Cross Street,
Nungambakkam, Chennai-600 034.

5. The Assistant Engineer,
Zone-IX Mylapore Division,
Greater Chennai Corporation,
No.4, Lake Area, 4th Cross Street,
Nungambakkam, Chennai-600 034.

6. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road, Egmore,
Chennai-600 008.

+1cc to Mr.Arul Selvam, Advocate, S.R.No.11851

+1cc to the Government Pleader, S.R.No.12333

W.P.No.3455/2022

KM(08/03/2022)