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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2022

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THE HONOURABLE MR.JUSTICE T.RAJA

AND

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.NO.5530 OF 2022

P.Devaraj

... Petitioner

.Vs.

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

2. The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai - 600 001.

3. The Executive Engineer,
Zone - 13,
Greater Chennai Corporation,
Adyar, Chennai - 600 020.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Mandamus, directing the 1st respondent to consider and pass orders in the Appeal Petition filed under the Town and Country Planning Act dated 06.01.2022 by the petitioner challenging the impugned De-occupation notice bearing Reference No.Dn.178/001/2021, dated 22.12.2021 issued by the 3rd respondent herein under the Town and Country Planning Act, 1971, pertaining to the subject property situated at Plot No.37, Devikarumari Amman Nagar 1st Street, Velacherry, Chennai - 600 042 and consequently, forbear all further proceedings of the respondents from initiating any coercive action of Locking and Sealing of the subject property, pending disposal of the Petitioner's Appeal Petition before the 1st respondent.



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For Petitioner : Mr.V.Jai Bharath
For 1st Respondent : Mr.K.V.Sajeev Kumar
Special Government Pleader
For respondents : Mr.K.Raja Shrinivas
2 and 3 Standing Counsel

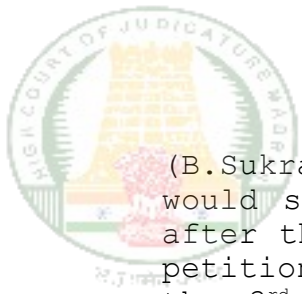
ORDER

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

This Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the 1st respondent to consider and pass orders in the Appeal Petition filed under the Town and Country Planning Act dated 06.01.2022 by the petitioner challenging the impugned De-occupation notice bearing Reference No.Dn.178/001/2021, dated 22.12.2021 issued by the 3rd respondent herein under the Town and Country Planning Act, 1971, pertaining to the subject property situated at Plot No.37, Devikarumari Amman Nagar 1st Street, Velacherry, Chennai - 600 042 with a consequential direction, forbearing all further proceedings of the respondents from initiating any coercive action of Locking and Sealing of the subject property, pending disposal of the Petitioner's Appeal Petition before the 1st respondent.

2. Learned Counsel appearing for the petitioner would submit that the petitioner having purchased the subject property by a registered Sale Deed dated 11.06.2020 bearing Document No.2296/2020 from one Mr.B.Ramesh rep. by his Power of Attorney agent Mr.B.Selvakumar and from one M/s.G.Jayanthi rep by her Power of Attorney Agent G.Sankarayan vide Doc.No.6421/2018 of Sub-Registrar's Office, Velacherry, he has applied for planning permission jointly in a single plan for demolition and reconstruction and the same is pending before the authorities concerned. But the respondents, without considering the fact that the application for planning permission is pending, are attempting to lock and seal the subject property by issuing notices. The petitioner has also filed an appeal along with stay petition under Section 80(A) of the Town and Country Planning Act, 1971 against the impugned de-occupation notice dated 21.12.2021 issued by the 3rd respondent and the same is also pending.

3. Learned Counsel for the petitioner placing an unreported decision of this Court in W.P.No.452/2022 dated 12.01.2022



(B.Sukraj Jain vs. The Corporation of Chennai and two others) would submit that this Court taking into account the fact that after the issuance of lock and seal and demolition notice to the petitioner therein, he has preferred a special revision before the 3rd respondent under Section 80-A of the Town and Country Planning Act, along with stay petition, directed the Appellate Authority, namely, the Secretary to Government, Government of Tamil Nadu, Housing and Urban Development Department, Fort St. George, Chennai-9, to consider and dispose of the special revision filed by the petitioner therein within a period of six months and till then not to take any coercive steps, therefore, a similar order may be passed in this Writ Petition also.

4. Mr.K.V.Sajeevkumar, learned Special Government Pleader takes notice for 1st respondent and Mr.K.Raja Shrinivas, learned Standing Counsel for Chennai Corporation takes notice for respondents 2 and 3. They have jointly stated that the petitioner's appeal dated 06.01.2022 filed under Section 80-A of the Town and Country Planning Act, 1971 will be considered and disposed of on merits and in accordance with law, within a period of three months.

5. Placing on record two aspects, namely, firstly, that the petitioner has filed an Appeal dated 06.01.2022 under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 before the 1st respondent which is pending and secondly, a similar order has also been passed in W.P.No.452/2022, we hereby direct the 1st respondent to consider and dispose of the Appeal filed by the petitioner on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this Order, after providing an opportunity of personal hearing to the petitioner. Till then, no coercive steps shall be taken by the respondents.

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

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

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

2. The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai - 600 001.

3. The Executive Engineer,
Zone - 13,
Greater Chennai Corporation,
Adyar, Chennai - 600 020.

+2ccs to Mr.V.Jai Bharath, Advocate, S.R.No.16560
+1cc to the Government Pleader, S.R.No.17465

W.P.NO.5530 OF 2022

PMK (CO)
PBS/23/03/2022