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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.5918 of 2022

and

W.M.P.No.6018 of 2022

Mrs.B.Sridevi
W/o.R.Balakrishnan

... Petitioner

vs

1. Secretary to Government,
Housing and Urban Development Department,
Secretariat,
Chennai - 600 009.

2. The Greater Chennai Corporation,
Rep. By its Commissioner,
Rippon Buildings,
Chennai - 600 003.

3. The Assistant Engineer,
DIV 067
Greater Chennai Corporation,
No.158, Strahans Road,
Otteri, Chennai - 600 012.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus restraining the second and third respondents from in any way taking coercive steps like locking and sealing or demolishing or forcefully vacate the petitioner from the premises situated at Door No.11/6, Sai Nagar Third Street, Peravallur, Chennai - 600 082 pending consideration of the statutory appeal filed by the petitioner before the first respondent filed against the de-occupation notice dated 25.01.2022.



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For Petitioner : Mr.S.Mahesh Kumar

For R1 : Mr.K.V.Sajeev Kumar
Special Government Pleader

For R2 & R3 : Mr.K.Raja Shrinivas
Senior Standing Counsel for Corporation

O R D E R

[Order of this Court was delivered by T.RAJA, J.]

Mrs.B.Sridevi, W/o. R.Balakrishnan residing at No.11/6, Sai Nagar Third Street, Peravallur, Chennai, has come to this Court for issuance of Writ of Mandamus under Article 226 of Constitution of India directing the Commissioner, Greater Chennai Corporation/Second respondent and the Assistant Engineer, DIV 067, Greater Chennai Corporation/third respondent not to take any coercive steps like locking and sealing or demolishing or forcefully vacate her from the premises situated at Door No.11/6, Sai Nagar third Street, Peravallur, Chennai - 600 082 pending consideration of the statutory appeal filed by her before the first respondent against the de-occupation notice dated 25.01.2022.

2.Learned Counsel appearing for the petitioner submitted that on 21.01.2021, the petitioner received Stop Work Notice asking her to produce planning approval. As the petitioner had obtained planning permission for the subject property on 15.12.2015, she has initiated construction and completed the work during the month of August 2016 and since then, she has been in peaceful occupation of the flat with her family members. She has also got electricity connection, sewage connection and paying electricity and property tax for said property. During pandemic, due to disagreement with her neighbours in the residential complex, one of the neighbours with a bad intention to harass her and her family members, lodged a complaint before the third respondent's office alleging that the petitioner had put up unauthorised construction. On receipt of the same, the third respondent issued notices dated 21.01.2021 and 24.06.2021. Aggrieved thereby, the petitioner has filed an appeal under Sections 79, 80A and 113C of the Tamil Nadu Town and Country Planning Act before the Secretary to Government, Housing and Urban Development Department and the same is also pending. The petitioner sent a detailed reply providing sufficient reasons and information regarding the pendency of the Appeal to the



third respondent stating that when the petitioner's appeal is pending before the first respondent, till the appeal is disposed of, the respondents shall be directed not to take coercive steps by the authorities. In support of his contention, the learned Counsel for the petitioner would rely upon an unreported decision of this Court dated 12.08.2021 in W.P.No.16736 of 2021 [M.Nirmaladevi vs. The Commissioner, Greater Chennai Corporation] wherein this Court has directed the official respondents therein not to take any coercive steps against the petitioners till the appeal is disposed of, as any action during the pendency of the appeal would defeat the very purpose of the appellate remedy.

3. Mr.K.Rajashrinivas, learned Standing Counsel appearing for the second and third respondents and Mr.K.V.Sajeev Kumar, learned counsel appearing for the first respondent also stated that the appeal is pending, but in the present case, the petitioner has made unauthorised construction. Therefore, the Stop Work Notice and Lock and Seal Notice have been issued to her. Nowhere the petitioner has mentioned that she has constructed her house as per the planning permission. Therefore, the petitioner is not entitled to interim protection before this Court.

4.Mr.K.V.Sajeev Kumar, learned Special Government Pleader appearing for the first respondent sought eight weeks time for disposal of the appeal.

5.Considering the facts and circumstances of the case and also the submission of the learned Special Government Pleader, the first respondent is directed to dispose of the petitioner's appeal within a period of eight weeks from the date of receipt of a copy of this order, after affording opportunity of hearing to the petitioner and the person who gave complaint against the petitioner's construction. Till the Appeal is disposed, no coercive steps shall be taken against the Petitioner as it is a residential building.

6.With the above directions, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

SD/-

ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR



dh/srm
To

1. The Secretary to Government,
Housing and Urban Development Department
Secretariat,
Chennai - 600 009.

2. The Commissioner,
Greater Chennai Corporation,
Rippon Buildings,
Chennai - 600 003.

3. The Assistant Engineer,
DIV 067
Greater Chennai Corporation,
No.158, Strahans Road,
Otteri, Chennai - 600 012.

+1cc to M/s.Rohini Ravikumar, Advocate Sr.17861
+1cc to Mr.K.Raja Srinivas, Advocate Sr.18325

W.P.No.5918 of 2022

rk[co]
srg 12/04/2022