

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.5666 of 2022
and
W.M.P. No.5757 of 2022

R.Shanmugapriya

...Petitioner

vs

1. Chennai Metropolitan Development Authority,
represented by its Member Secretary,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
2. The Commissioner,
Tambaram Municipal Corporation,
Tambaram, Chennai.
3. Government of Tamil Nadu,
rep. by its Secretary to Government,
Housing and Urban Development Department,
Fort St. George,
Chennai-9.
4. The Assistant Executive Engineer,
TANGEDCO,
Officers Lane,
Pallavaram, Chennai-43.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus forbearing the first respondent or anybody on their behalf from initiating any coercive action of locking and sealing of the ground floor (part), 1st floor and 2nd floor (part) or demolition with regard to the building put up at S.No.203/9A-2, 203/9AB-2 comprised in Ward No.18 at 200 Feet Radial Road, Zamin Pallavaram, Chennai-600 043 pending determination of the Revision Petition submitted by the petitioner under Section 80-A of the Tamil Nadu Town and Country Planning Act dated 11.10.2021 with the third respondent.

For Petitioner : Mr.Ravichandran
for Mr.V.C.Selvasekaran

For Respondents : Mrs.C.Sumathi,
Standing Counsel
(CMDA) for R1

Mr.P.Srinivas,
Standing Counsel
(Municipality) for R2

Mr.K.Karthik Jaganathan,
Government Advocate for R3

Mr.L.Jaivenkatesh,
TNEB for R4

ORDER

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

The petitioner has come to this Court for issuance of a writ of mandamus under Article 226 of the Constitution of India forbearing the first respondent or anybody on their behalf from initiating any coercive action of locking and sealing of the ground floor (part), 1st floor and 2nd floor (part) or demolition with regard to the building put up at S.No.203/9A-2, 203/9AB-2, comprised in Ward No.18, situated at 200 Feet Radial Road, Zamin Pallavaram, Chennai-600 043 pending determination of the Revision Petition submitted by her under Section 80-A of the Tamil Nadu Town and Country Planning Act dated 11.10.2021 with the third respondent.

2.Learned counsel appearing for the petitioner submitted that the petitioner's property covered in S.No.203/9A-2, 203/9AB-2, comprised in Ward No.18 is situated at 200 Feet Radial Road, Zamin Pallavaram, Chennai-600 043 and the petitioner, being a Practicing Doctor, in order to construct nursing home as well as residential house, has obtained planning permission for construction of basement + stilt cum ground + 2 floors of commercial building from the Pallavaram Municipality and her revised plan submitted to the authorities for additional floor construction was also approved on 29.01.2021. While so, the officials of the first respondent issued locking and sealing and demolition notice under Sections 56, 57 and 85 of the Tamil Nadu Town and Country Planning Act. Aggrieved by the same, the petitioner preferred Appeal/Revision Petition along with Stay Petition under Sections 80-A and 80-A(3) of the above Act to the second respondent and the same is under consideration. Learned counsel for the petitioner further submitted that since there is a minor deviation, which is capable of rectification and

regularisation on payment of charges, the action of the first respondent in interfering with the peaceful possession is violative of the provisions of law. Therefore, the petitioner is before this Court with the above prayer.

3.At this stage, learned Standing Counsel appearing for the Commissioner, Tambaram Municipality, the second respondent herein submitted that the part of the second floor and third floor were sealed on 30.12.2021. When the petitioner has filed an Appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act, she has to work out her remedy only by approaching the appellate authority.

4.Learned Government Advocate appearing for the Secretary to Government, Housing and Urban Development Department, the third respondent herein submitted that the Appeal filed by the petitioner will be taken up within a period of three weeks.

5.Since the Appeal filed by the petitioner against the lock and seal and demolition notice under Section 80-A of the Tamil Nadu Town and Country Planning Act is pending for consideration, both the parties are directed to maintain status quo till the disposal of the Appeal, otherwise the Appeal filed by the petitioner would become infructuous. When the part of the second floor and third floor were sealed on 30.12.2021, let the Appeal be taken up by the third respondent and disposed of, on merits and in accordance with law within a period of three weeks from the date of receipt of a copy of this order.

6.With the above direction, this writ petition stands disposed of. No costs. Consequently, W.M.P. No.5757 of 2022 stands closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

vga

To

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

2. The Commissioner,
Tambaram Municipal Corporation,
Tambaram, Chennai.
3. The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George,
Chennai-9.
4. The Assistant Executive Engineer,
TANGEDCO,
Officers Lane,
Pallavaram, Chennai-43.

+1cc to Mr.P.Srinivas, Advocate, S.R.No.17194

+1cc to the Government Pleader, S.R.No.17463

W.P.No.5666 of 2022
and
W.M.P. No.5757 of 2022

SVI(CO)
RGA(01/04/2022)