

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.6029 of 2022 and W.M.P. No.6120 of 2022

A.Latha ... Petitioner

vs

1.Government of Tamil Nadu,
rep. by its Secretary to Government,
Housing and Urban Development Department,
Secretariat,
Chennai-600 009.

2.Corporation of Chennai,
rep. by its Commissioner,
Ripon Building,
Chennai - 600 003.

3.The Executive Engineer,
Greater Chennai Corporation,
Zone-VI, No.158, Strahans Road,
Pattalam, Chennai-600 012.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the second respondent to forbear them from in any way interfering with the petitioner's building at No.1, Kattabomman Street, Venkateshwara Nagar, Peravallur, Chennai - 600 082 particularly by way of locking and sealing and or demolition of the same, pending final determination of the Special Revision Petition dated 09.03.2022 under Section 80(A) and 80(A)(3) of the Town and Country Planning Act 1971 by the first respondent.

For Petitioner :Mr.D.S.Rajasekaran

For Respondents :Mr.K.Surendran,
Additional Government Pleader
for R1

Mr.K.Raja Shrinivas,
Standing Counsel (Corporation)
for R2 & 3

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 respondents from in any way interfering with her building, situated at No.1, Kattabomman Street, Venkateshwara Nagar, Peravallur, Chennai - 600 082, particularly by way of locking, sealing and demolishing the same, pending final determination of the Special Revision Petition dated 09.03.2022 under Section 80(A) and 80(A)(3) of the Town and Country Planning Act 1971 by the first respondent.

2.Learned counsel appearing for the petitioner submitted that the property situated at No.1, Kattabomman Street, Venkateshwara Nagar, Peravallur, consisting of land and building, was purchased by the petitioner on 23.10.2002 by virtue of registered Sale Deed vide Doc.No.3644 of 2002. Thereafter, she had obtained approval for demolition and reconstruction from the Executive Engineer, Greater Chennai Corporation, Chennai, the third respondent herein and constructed stilt + 2 floors in the year 2012. While so, the petitioner's neighbour one A.Varadharaj, belonging to Urapakkam Village has made a complaint, which resulted in issuance of lock and seal and demolition notice by the third respondent vide Notice dated 21.01.2019 and followed by a De-occupation notice dated 19.02.2019. After receipt of the same, the petitioner preferred an Appeal to the Secretary to Government, Housing and Urban Development Department, Chennai, the first respondent herein under Section 80(A) and 80(A)(3) of the Tamil Nadu Town and Country Planning Act, 1971 on 02.03.2019. By order dated 24.10.2019, the first respondent rejected the Appeal filed by the petitioner. Therefore, the petitioner filed a Review under Section 81 of the Town and Country Planning Act on 20.11.2019, which was also rejected by letter dated 21.11.2020.

3.At this stage, Mr.K.Surendran, learned Additional Government Pleader appearing for the first respondent and Mr.K.Raja Shrinivas, learned Standing Counsel appearing for the Corporation/respondents 2 and 3 submitted that once Appeal/Special Revision and Review filed under Sections 80-A, 80(A)(3) and 81 respectively of the Tamil Nadu Town and Country

Planning Act, 1971 were rejected, the petitioner cannot re-open her grievance under Section 80(A) of the Act.

4.Learned counsel for the petitioner further submitted that the Government has got power under Section 49 of the Act to consider the Application for permission for the revised plan. Therefore, a week's time may be granted to the petitioner to file an Application under Section 49 of the Act.

5.Mr.K.Surendran, learned Additional Government Pleader appearing for the first respondent and Mr.K.Raja Shrinivas, learned Standing Counsel appearing for the Corporation/respondents 2 and 3 submitted that if the Application for permission for revised plan is presented by the petitioner under Section 49 of the Act, the same would be considered, on merits.

6.Since the remedies available to the petitioner under Section 80(A), 80(A)(3) and 81 of the Tamil Nadu Town and Country Planning Act have been exhausted by the petitioner by filing Appeal/Special Revision and the Review, we are inclined to give liberty to the petitioner to file an Application for permission under Section 49 of the Tamil Nadu Town and Country Planning Act, 1971. Accordingly the petitioner is given liberty to file an Application for permission for revised plan under Section 49 of the Tamil Nadu Town and Country Planning Act, 1971 before the third respondent, within 10 days from the date of receipt of a copy of this order. If any such application is filed before the third respondent, the same shall be considered, on merits and in accordance with law, within a period of three months thereafter.

7.With the above direction, this writ petition stands disposed of. No costs. Consequently, W.M.P. No.6120 of 2022 stands closed.

Sd/-

Assistant Registrar(CS-V)

// True Copy //

Sub Assistant Registrar

vga
To

1.Government of Tamil Nadu,
rep. by its Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai-600 009.

2. Corporation of Chennai,
rep. by its Commissioner,
Ripon Building,
Chennai - 600 003.

3. The Executive Engineer,
Greater Chennai Corporation,
Zone-VI, No.158, Strahans Road,
Pattalam, Chennai-600 012.

+1cc to Mr.K.Raja Srinivas, Advocate SR.No.18327
+1cc to Mr.D.S.Rajasekaran, Advocate SR.No.17644
+1cc to the Government Pleader, SR.No.18167

W.P.No.6029 of 2022 and W.M.P. No.6120 of 2022

BP(CO)
CB(07/04/2022)