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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.8400 of 2022

1. P.Ramakrishnan
2. Vallidevi
W/o Ramakrishnan
3. Vasantha Kumar
S/o Ramakrishnan

.. Petitioners

-vs-

1. The Secretary,
Tamil Nadu Housing and Urban Development,
Fort St.George, Chennai.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai 600 008
3. The Commissioner,
Pallavaram Municipality,
Chennai

.. Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, thereby directing the second respondent to remove the lock and seal consequent to the Lock and Seal Notice dated 29.12.2021 bearing Ref.No.EC/S1/1383/2021, until the appeal dated 27.01.2022 pending before the first respondent is disposed off.

For Petitioners

:: Mr.AR.L.Sundaresan
Senior Counsel for
M/s R.Kamalarani

For Respondents

:: Mr.K.V.Sajeew Kumar
Special Government Pleader
for R1 & 3
Mrs.P.Veena Suresh
Standing Counsel for R2



ORDER

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

The petitioners, being the co-owners of Vasantham Thirumana Maaligai, have filed this writ petition seeking issuance of a mandamus directing the Member Secretary, Chennai Metropolitan Development Authority, the second respondent herein to remove the lock and seal effected pursuant to the lock and seal notice dated 29.12.2021, until the appeal dated 27.01.2022 pending before the first respondent is disposed of on merits and as per law.

2. Learned Senior Counsel appearing for the petitioners submitted that the petitioners are the owners of the landed property having an extent of 36000 sq.ft., in Zamin Pallavaram Village, Chromepet and they were running a timber business under the name and style of 'Jaya Timber Depot' from the year 1972. As the timber business went down, they had to close the timber business in the year 1995 and the same was shifted to Tuticorin in the year 1996. Thereupon they decided to convert the building to a bike showroom. Subsequently, after changing their plan, a warehouse was put up for storage and supply of FMCG in the year 2001 and thereafter, in the year 2005, they constructed a cold storage for the capacity of 2000 metric tonnes after obtaining approval from the Pallavaram Municipality vide P.P.A.Nos.562 and 615 of 2007 and the construction was also completed before 31.07.2007. However, huge extent of land belonging to the petitioners were acquired for construction of a flyover on the southern and western sides of the petitioners property and additional portions were also acquired from the petitioners property for the formation of a service road and a part of the constructed building was also to be demolished on account of the acquisition proceedings made by the respondents. This had resulted in the alteration of the building construction for better usage in order to make it habitable. As it was a cold storage, the movement of container vehicles were restricted by the traffic police. Further, they had to modify the internal structure of the building construction to convert the same as a marriage hall. Besides, they had also created a multilevel car parking facility to house 300 cars in the area. The petitioners have also obtained Licence/NOC from the Tamil Nadu Fire and Rescue Services Department on 31.8.2018 and the same has also been renewed periodically. This apart, they had also obtained the Trade Licence from the Pallavapuram Municipality during the years 2016, 2018 and the same was also renewed subsequently. On the strength of the NOC and the Trade Licence for running the Vasantham Tirumana Maaligai, the petitioners have also now entertained the marriage bookings for the ensuing marriages and one such marriage invitation for the marriage to be held on 6.4.2022 has also been placed before us. Besides, a list of



bookings for the marriages to be held on various dates during this year has also been enclosed at page 87 of the typedset of papers. But all of a sudden, for the reason that the petitioners have converted the cold storage to a marriage hall, the second respondent has issued a lock and seal notice on 29.12.2021. Immediately the petitioners have also filed an appeal on 27.01.2022 under Section 80-A of the Tamil Nadu Town and Country Planning Act along with the application for stay, taking a ground that the petitioners have already filed an application on 15.5.2019 before the second respondent seeking regularisation under Section 113-C of the Town and Country Planning Act, 1971 and it is pending. In addition thereto, the petitioners have been facing problems on all sides, namely, when the regularisation application dated 15.5.2019 is pending, the lock and seal notice dated 29.12.2021 issued by the second respondent cannot operate against the petitioners, for the simple reason that if the petitioners successfully obtain an order of regularisation for running of the Vasantham Tirumana Maaligai in the place in question, the lock and seal notice would automatically become infructuous. Secondly, if the appeal filed under Section 80-A of the Tamil Nadu Town and Country Planning Act is also for any reason, accepting the case of the petitioners, stands allowed, again the petitioners would be put to face irreparable loss and unthinkable problems from the persons who have already booked the mandapam in question for conducting the ensuing marriages. Therefore, the learned Senior Counsel appearing for the petitioners submitted that till the disposal of the appeal filed under Section 80-A of the Tamil Nadu Town and Country Planning Act, the respondents shall be directed to de-seal the premises and allow the petitioners to run the Vasantham Tirumana Maaligai, as there won't be any prejudice caused to them.

3. Opposing the above prayer, Mr.K.V.Sajeev Kumar, learned Special Government Pleader appearing for the respondents 1 & 3 contended that the Tamil Nadu Town and Country Planning Act provides for disposal of the appeal on merits in 90 days time. But it is an admitted case where the petitioners have not obtained planning permission to construct the Vasantham Tirumana Maaligai. On the other hand, they have obtained planning permission only for putting up the cold storage in the place in question. After obtaining planning permission for this purpose, now the petitioners have been using the multilevel car parking facility only for running the Tirumana Maaligai, for which, till date, no planning permission has been obtained. Since it is a serious violation, the authorities have taken a decision to issue the lock and seal notice dated 29.12.2021 and accordingly, the Vasantham Tirumana Maaligai, which has been constructed without obtaining planning permission, has also been locked and sealed.



4. Mrs.P.Veena Suresh, learned Standing Counsel appearing for the second respondent also submitted that the regularisation application filed by the petitioners could not be taken up in view of the pendency of the batch of writ petitions before the First Bench in W.P.Nos.23889 of 2017 etc., wherein challenge has been made to the Government Order issued by the first respondent specifying the guidelines, in exercise of the powers conferred by Section 113-C of the Tamil Nadu Town and Country Planning Act, 1971, for consideration of regularisation to this type of cases.

5. We have considered the rival submissions. Admittedly, the petitioners have filed an appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act on 27.01.2022 before the first respondent against the lock and seal notice and the same is pending. They have also moved an interlocutory application seeking for stay, pending disposal of the appeal. But, as rightly canvassed by the learned Standing Counsel for the second respondent, the question of consideration of the application for regularisation filed by the petitioners cannot be taken up, in view of the pendency of the batch of writ petitions in W.P.Nos.23889 of 2017 etc., before this Court challenging the Government Order specifying the Guidelines for the Exemption of Buildings, 2017. But we find that the appeal filed by the petitioners on 27.01.2022 before the first respondent under Section 80-A of the Tamil Nadu Town and Country Planning Act questioning the lock and seal notice deserves to be disposed of on merits expeditiously. Therefore, we hereby direct the first respondent to consider the pending appeal dated 27.01.2022 filed by the petitioners under Section 80-A of the Tamil Nadu Town and Country Planning Act and dispose of the same on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. In the meanwhile, as the petitioners have shown before us a list of marriage bookings made by the persons for performing their ensuing marriages in the Vasantham Tirumana Maaligai, considering the problem and inconvenience to be faced by the people who have booked the Tirumana Maaligai in question, we also direct the second respondent to de-seal the premises to enable the petitioners to use the marriage hall till the disposal of the appeal by the first respondent on merits as directed in this order. It is made clear that this arrangement is only for the reason that the petitioners have entertained the bookings from the innocent persons for conducting the marriages in the Vasantham Tirumana Maaligai and the first respondent can consider and dispose of the appeal on merits, without being influenced by any of the observations made by this Court, within the time stipulated in



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this order. The writ petition stands disposed of accordingly. However, there is no order as to costs.

Sd/-
Assistant Registrar (CS VIII)

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Sub Assistant Registrar

SS

To

1. The Secretary to Government
Housing and Urban Development Department
Fort St. George
Chennai
2. The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008
3. The Commissioner
Pallavaram Municipality
Chennai

+1cc to Mr.P.Veerasuresh, Advocate, S.R.No.23080
+2cc to M/s.Kamalarani, Advocate, S.R.No.22832, 23098
+1cc to the Government Pleader, S.R.No.23229

W.P.No.8400 of 2022

CNR (CO)
TE (05/04/2022)