



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2022

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

W.P.No.9497 of 2022 and WMP.No.9252 of 2022

S.Vasantha

... Petitioner

-vs-

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

2.The Chennai Metropolitan Development Authority
rep. by its Member Secretary,
No.1, Gandhi Irwin Road,
Chennai-600 008.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Mandamus, forbearing the 2nd respondent or its men from initiating any coercive action of locking and sealing and demolition with regard to the building constructed in Door No.161/3, Surya Narayana Chetty Road, Royapuram, Chennai-600 013 under the impugned order of the 2nd respondent in Notice under Section 56(2) Sub Clause (iii) and 2A of the Town and Country Planning Act, 1971, by Letter No.EC/N-1/17075/2019 dated 21.03.2022, pending determination of the appeal petition filed before the 1st respondent under Sections 80-A and 80-A(3) of the Tamil Nadu Town and Country Planning Act, 1971 dated 07.04.2022.

For Petitioner : Mr.Venkatesh Mahadevan

For Respondents : Mr.K.Surendar,
Government Advocate for R1

Mrs.P.Veena Suresh for R2



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

This Writ Petition has been filed seeking to issue a Writ of Mandamus, forbearing the 2nd respondent or its men from initiating any coercive action of locking and sealing and demolition with regard to the building constructed in Door No.161/3, Surya Narayana Chetty Road, Royapuram, Chennai-600 013 under the impugned order of the 2nd respondent in Notice under Section 56(2) Sub Clause (iii) and 2A of the Town and Country Planning Act, 1971, by Letter No.EC/N-1/17075/2019 dated 21.03.2022, pending determination of the appeal petition filed before the 1st respondent under Sections 80-A and 80-A(3) of the Tamil Nadu Town and Country Planning Act, 1971 dated 07.04.2022.

2. Learned Counsel appearing for the petitioner submits that the petitioner is the owner of the property to an extent of about 860 sq.ft. situated at Door No.161/3, Surya Narayana Chetty Road, Royapuram, Chennai, by virtue of a registered sale deed dated 09.02.1995 bearing Document No.268/1995. She has proposed to construct a residential house for herself and her two sons and applied to the Chennai Metropolitan Development Authority, the 2nd respondent herein for planning permit and the same was also obtained vide P.P.No.A/1121/541/2005 dated 21.09.2005 in Lr.No.A3/17490/2005 for construction of ground and first floor building and the said construction was also completed as per the planning permission. While constructing the building, two upper floors in the 2nd and 3rd floors were put up as temporary structures and for accommodating the family. The same has been done by her due to ignorance and oversight regarding applying for planning permission. Therefore, the petitioner has received a Lock and Seal and Demolition Notice dated 21.03.2022 issued under Section 56(2)(iii) and 2A of the Tamil Nadu Town and Country Planning Act, 1971 by the 2nd respondent herein informing that the construction of 2nd and 3rd floors are unauthorized. Therefore, the petitioner has asked to restore the building to its original condition within 30 days from the date of receipt of the said notice. The petitioner has filed an appeal under Section 80-A of the Act against the same before the 1st respondent on 07.04.2017 and the same is pending consideration.

3. Learned Counsel for the petitioner further submits that when the appeal filed under Section 80-A of the Act is pending consideration before the 1st respondent, the issuance of notice dated 21.03.2022 under Section 56(2)(iii) and 2A of the Tamil Nadu Town and Country Planning Act, 1971 by the 2nd respondent herein is unjustifiable because if for any reason, the case of the petitioner is accepted by the 1st respondent, the impugned notice would become meaningless, therefore,



requested this Court to allow the present Writ Petition.

4. Mr.K.Surendar, learned Government Advocate takes notice for 1st respondent and Mrs.P.Veena Suresh, learned Standing Counsel takes notice for 2nd respondent.

5. Learned Counsel for the 2nd respondent, placing on record an order passed in Cont.P.No.1052/2020 dated 22.3.2022 by the First Bench of this Court while closing the said Contempt Petition submits that there is an observation to bring the same to the notice of the court if there is any challenge as to the sealing of the building-in-question.

6. A perusal of the same would go to show that the petitioner herein was not a party to the proceedings in W.P.No.1809/2018 and in Contempt Petition No.1052/2020,. Only the lock and seal notice dated 21.03.2022 shows that the petitioner has put up two floors unauthorizedly when planning permission has been granted only to put up ground and first floor. Therefore, in our considered opinion, the impugned Lock and Seal notice prima facie appears to have been issued rightly. However, it appears that the petitioner has availed the statutory appeal remedy under Section 80-A of the Act. Therefore, we hereby direct the 1st respondent to consider the pending appeal filed by the petitioner along with the Stay Petition dated 07.04.2022 bearing in mind the orders already passed by this Court in W.P.No.1809/2018 dated 18.9.2019 and in the Contempt Petition No.1052/2020 and dispose of the same on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this Order, after giving an opportunity of hearing to the petitioner herein. The petitioner is also directed to file both the orders before the 1st respondent for better appreciation of the case while disposing of the appeal.

7. At this stage, learned Counsel appearing for the 2nd respondent undertakes to furnish both order copies to the petitioner, who in turn file the same before the 1st respondent.

8. With the above observation and direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

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To

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

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

+1cc to Mrs.P.Veena Suresh, Advocate SR.No.25613

+1cc to Government Pleader SR.No.26166

W.P.No.9497 of 2022

SVI (CO)
GMY (04/05/2022)