



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2022

CORAM :

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

W.P.NO.9907 OF 2022

Yasin Bee

...Petitioner

Vs

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

2.Greater Chennai Corporation,
rep. by its Commissioner,
Rippon Building, Chennai - 600 003.

3.The Greater Chennai Corporation,
Rep. by Executive Engineer,
Zone-1, Division-14,
No.945, Thiruvotriyur High Road,
Chennai - 600 019.

...Respondents

Prayer : Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing respondents 2 and 3 to remove the lock and seal affixed on 19.01.2021 to the premises at No.1038, 1039/1&2, Thiruchinankuppam Main Road, Rajakadai, Thiruvotriyur, Chennai-600 019 so as to enable the petitioner to carry on rectification to the same to bring it in consonance to the Tamil Nadu Combined Development Regulations and to submit a revised plan as required under Section 49 of the Tamil Nadu Town and Country Planning Act 1971 within a reasonable time.

For Petitioner : Mr.D.S.Rajasekaran

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

Mr.K.Raja Shrinivas,
Standing Counsel for Corporation
for R2 and 3



ORDER

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

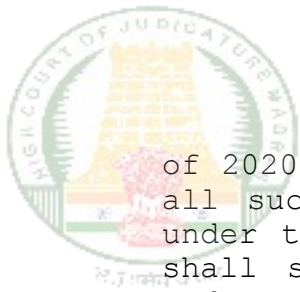
The petitioner herein has come to this Court with this petition for issuance of a writ of Mandamus under Article 226 of the Constitution of India seeking a direction to respondents 2 and 3 to remove the lock and seal affixed on 19.01.2021 in the premises, situated at No.1038, 1039/1&2, Thiruchinankuppam Main Road, Rajakadai, Thiruvotriyur, Chennai-600 019 so as to enable her to carry on rectification and to submit a revised plan as required under Section 49 of the Tamil Nadu Town and Country Planning Act 1971, within a reasonable time.

2.Learned counsel appearing for the petitioner submitted that originally the property, situated in Door Nos.1038 and 1039/1 & 2, comprised in S.Nos.174/9 and 181/1 at Thiruchinankuppam Main Road, Rajakadai, Thiruvotriyur, Chennai-600 019, belongs to one R.Valarmathy, who has sold and executed a Sale Deed, registered as Doc.No.8319 of 2017 in the office of SRO., Thiruvotriyur. Since the said building was very old and in a dilapidated condition, the petitioner proposed to carry out necessary repairs by way of addition and alteration to strengthen and re-inforce the structure of the building. Therefore, when the petitioner approached the third respondent seeking permission for the same, the third respondent insisted the petitioner to get patta for receiving the application and issued lock and seal and demolition notice on 09.01.2021. Since the petitioner wants to rectify the defects pointed out by the respondents, she has not preferred any Appeal/Revision under Section 80-A of the Tamil Nadu Town and Country Planning Act. Learned counsel for the petitioner further submitted that if the petitioner is given three months' time, she would be able to move a fresh application seeking permission to carry out rectification of the defects pointed out by the respondents and thereafter to move fresh application for planning permission.

3.Mr.K.Raja Shrinivas, learned Standing Counsel appearing for Corporation/R2 and 3 submitted that the petitioner has not even got patta in her name at the relevant point of time and she has also made construction in the guise of renovation and restoration, for which, she has to obtain permission from the competent authority. Since she failed to do so, lock and seal notice was issued to her.

4.Heard the parties on both sides.

5.The Hon'ble Apex Court, taking suo motu cognizance of the situation arising out of COVID-19 pandemic and in exercise of powers conferred under Article 142 read with Article 141 of the Constitution of India, in a Suo Motu Writ Petition (Civil) No.3



of 2020 dated 23.03.2020, ordered that a period of limitation in all such proceedings irrespective of the limitation prescribed under the General Law or Special Laws whether condonable or not shall stand extended with effect from 15.03.2020 till further orders to be passed by the Hon'ble Apex Court. The relevant portion of the said order passed by the Hon'ble Apex Court is extracted below:-

'1.This Court has taken suo motu cognizance of the situation arising out of the challenge faced by the country on account of Covid-19 Virus and resultant difficulties that may be faced by litigants across the country in filing their petitions/applications/suits/ appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under special laws (both Central and/or State).

2.To obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunals across the country including this Court, it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15th March 2020 till further order/s to be passed by this Court in present proceedings.'

6.Again on 10.01.2022, the Hon'ble Apex Court in Miscellaneous Application No.21 of 2022 in Miscellaneous Application No.665 of 2021 in Suo Motu Writ Petition (C) No.3 of 2020, taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, has given the following directions:

'I.The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.

II.Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.

III.In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022.'



7.As we are bound by the above orders passed by the Hon'ble Apex Court, condoning the delay occurred during the Covid-19 pandemic period, we are inclined to grant three months' time to rectify the defects pointed out by the respondents. Accordingly, the third respondent is hereby permitted to de-seal the property within a period of one week from the date of receipt of a copy of this order. Thereafter, the petitioner is granted three months' time from the date of de-sealing the property, to carry out the rectification. The respondents are at liberty to take action against the petitioner, in accordance with law.

8.It is made clear that if the rectification to be made by the petitioner is permissible in accordance with law, it is open to her to make an application for getting planning permission. With the above observation, this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar

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To

1.Government of Tamil Nadu,
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Housing and Urban Development Department,
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rep. by its Commissioner,
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Zone-1, Division-14,
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+1cc to Mr.D.S.Rajasekaran, Advocate Sr.No.26839

W.P.No.9907 of 2022

SR(CO)
RVM(17/05/2022)