



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2022

CORAM

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

W.P.No.11397/2022 and WMP.No.10930/2022

1. D.Maheshwari
2. J.Karthik

... Petitioners

-vs-

1. The Secretary to the Government,
Housing & Urban Development Department,
Fort St. George, Chennai-600 009.
2. The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai-600 001.
3. The Executive Engineer, Zone-IX,
Greater Chennai Corporation,
Ripon Building,
Chennai-600 001.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Mandamus, directing the 1st respondent to consider and pass orders in the Appeal Petition filed under the Town and Country Planning Act dated 14.09.2021 by the petitioners challenging the De-occupation Notices bearing Reference Nos.Z.O.IX/TPEF/DIV-125/025/2021, Z.O.IX/TPEF/DIV125/026/2021 and Z.O.IX/TPEF/DIV-125/028/2021 dated 01.09.2021 issued by the 3rd respondent herein under Section 57 read with Section 85 of Town and Country Planning Act, 1971, pertaining to the subject property situated at Plot No.3/2 Karaneeswar Koil 3rd Lane, Mylapore, Chennai-600 004 and consequently, forbear all further proceedings of the respondents from initiating any coercive action of Locking and sealing of the subject property, pending disposal of the petitioners' Appeal Petition before the 1st respondent.

For Petitioners : Mr.L.Chandrakumar
For Respondents : Mr.K.Karthik Jaganathan,
Government Advocate for R1
Mr.K.Raja Shrinivas, for R2 & R3



ORDER

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

WEB COPY This Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the 1st respondent to consider and pass orders in the Appeal Petition filed under the Town and Country Planning Act dated 14.09.2021 by the petitioners challenging the De-occupation Notices bearing Letter Nos.Z.O.IX/TPEF/DIV-125/025/2021, Z.O.IX/TPEF/DIV125/026/2021 and Z.O.IX/TPEF/DIV-125/028/2021 dated 01.09.2021 issued by the 3rd respondent herein under Section 57 read with Section 85 of Town and Country Planning Act, 1971, pertaining to the subject property situated at Plot No.3/2 Karaneeswar Koil 3rd Lane, Mylapore, Chennai-600 004 and consequently, forbear all further proceedings of the respondents from initiating any coercive action of Locking and sealing of the subject property, pending disposal of the petitioners' Appeal Petition before the 1st respondent.

2. Learned Counsel appearing for the petitioners submitted that the petitioners are the joint owners of the property bearing Plot No.3/2 Karaneeswar Koil 3rd Lane, Mylapore, Chennai-600 004. While so, notices dated 01.09.2021 under Sections 56 and 57 read with 85 of the Tamil Nadu Town and Country Planning Act, 1971 were issued by the 3rd respondent herein, to discontinue the usage of the building within 7 days enabling them to lock and seal the subject property to secure the compliance of the approved plan. The petitioners have given a detailed reply to the said notice stating that the planning permission was obtained from the Greater Chennai Corporation and they would also undertake the rectification of the deviated portion so as to bring the same within the parameters of the approved building permission. It is further submitted that since the subject property was constructed after getting valid approval from the Greater Chennai Corporation and the building is equipped with all infrastructure facilities such as sewerage supply lines and water supply lines and there are many school going children and old age persons are living in the said property, an Appeal dated 14.09.2021 was filed by the petitioners under Section 80-A of the Tamil Nadu Town and Country Planning Act before the 1st respondent and the same is pending. Therefore, when the petitioners have filed an Appeal/Special Revision under Section 80-A of the Act, till the merit of the said Appeal/Special Revision is decided, they cannot continue to keep the building-in-question under seal and lock. Since the petitioners are having school going children and elderly people, finally, it is prayed that till the Special Revision filed under Section 80-A of the Act is decided on merits, there would not be any coercive action to be taken by the respondents herein.



3. Mr.K.Karthik Jaganathan, learned Government Advocate takes notice for 1st respondent and Mr.K.Raja Shrinivas, learned Standing Counsel takes notice for respondents 2 and 3. They would state that as the Appeal/Special Revision filed by the petitioners under Section 80-A of the Tamil Nadu Town and Country Planning Act is pending before the 1st respondent herein, the same shall be disposed of on merits and in accordance with law, within eight weeks from the date of receipt of a copy of this Order.

4. Placing on record their statement that the Special Revision/Appeal of the petitioners will be disposed of within 8 weeks, the 1st respondent is directed to consider and dispose of the petitioners' Appeal dated 14.09.2021, on merits and in accordance with law within a period of 8 weeks from the date of receipt of a copy of this Order. Till then, the respondents are directed to maintain status quo as on today.

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

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

TSI

To

1. The Secretary to the Government,
Housing & Urban Development Department,
Fort St. George, Chennai-600 009.
2. The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai-600 001.
3. The Executive Engineer, Zone-IX,
Greater Chennai Corporation,
Ripon Building, Chennai-600 001.

W.P.No.11397 of 2022
and WMP.No.10930/2022

RK(CO)
TE(12/05/2022)