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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.05.2022

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN
AND
THE HON'BLE MRS.JUSTICE S.ANANTHI

W.P.No.12005 of 2022

and W.M.P.No.11425 & 11426 of 2022

M/s.Rishab Info Park Pvt Ltd

Represented by its Authorised Signatory

and Director, Mr.Johnson Premkumar

Plot No.Super A14, 15, 16 & 17

TVK Industrial Estate, Guindy

Chennai - 600 032.

.... Petitioner

Vs

1.The Secretary

Government of Tamil Nadu

Housing and Urban Development Department

Fort St.George, Chennai 600 009.

2.The Member Secretary

Chennai Metropolitan Development Authority

Thalamuthu Natarajan Building

No.1, Gandhi Irwin Road

Egmore, Chennai 600 008.

3.The Principal Secretary / The Commissioner

Greater Chennai Corporation

Rippon Building, Chennai 600 003.

.... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the respondents from taking any coercive action against the premises of the petitioner located at Plot No. Super A14 15 16 and 17 TVK Industrial Estate Guindy Chennai-600 032 pending disposal of regularization application submitted by the petitioner to the 2nd respondent CMDA viz CMDA / Reg-113C/ 2154/ 2021 dated 13.01.2021 under the building Regularization Scheme 2017 under Sect 113-C of Town and Country Planning Act 1971.



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For Petitioner : Mr.AR.L.Sundaresan
for Mr.Vikram Veerasamy.B.

For Respondents: Mr.A.M.Ayyadurai
Government Advocate - for R1
Mr.R.Siva Kumar
Standing Counsel - for R2
Mrs.Vaitheeswari
Standing Counsel- for R3

O R D E R

(Order of the Court was made by R.MAHADEVAN, J.)

The prayer made in this writ petition is to issue a writ of mandamus forbearing the respondents from taking any coercive action against the premises of the petitioner located at Plot No.Super A14 15 16 and 17 TVK Industrial Estate, Guindy, Chennai - 600 032, pending disposal of the petitioner's application by the second respondent dated 13.01.2021 under the Building Regularisation Scheme 2017 under section 113C of the Town and Country Planning Act, 1971.

2.According to the petitioner, in the year 2006, they developed an IT park in the total land area of 51,217 sq.ft., based on G.O.No.169, Industries (MIE.2) Department, dated 12.09.1996, wherein, it has been specifically mentioned that the developer need not wait for the approval of plans before commencing with the construction. The said building consists of Basement 1 & Basement 2 + ground floor + 8 floors of permanent construction and the same has been assessed for property tax from the year 2006. While so, WP.No.15587 of 2020 came to be filed, seeking a mandamus directing the respondents therein to take necessary action against the petitioner for violating the construction of the said building. By order dated 03.11.2020, the said writ petition was disposed of by this court. Pursuant to the said order, the second respondent issued a notice bearing No.1425 dated 16.03.2020 calling upon the petitioner to produce the approved plan of the said property under sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971. Following the same, the second respondent issued a lock and seal and de-occupation notice dated 24.12.2020 directing the petitioner to restore the land to its original condition, failing which, adverse action would be taken. Challenging the same, the petitioner preferred an appeal under section 80A of the Tamil Nadu Town and Country Planning Act along with stay petition on 27.01.2021. Besides this, based on G.O.Ms.No.110 and 111,



Housing and Urban Development (UD 4(3) Department, the petitioner has filed an application seeking regularisation of the premises under the Building Regularisation Scheme, 2017 under section 113 C of the Town and Country Planning Act, 1971 vide CMDA/Reg-113C/2154/2021 dated 13.01.2021. Both the appeal and application are pending consideration before the authorities concerned, which compelled the petitioner to approach this court with this writ petition.

3. The learned senior counsel for the petitioner submitted that the petitioner has already filed an appeal stating that the construction of the building was completed in the year 2006 and that the buildings or class of buildings developed on or before 01.07.2007 were exempted from all the provisions of the Town and Country Planning Act or any rule or regularisation made thereunder, subject to the guidelines made thereon, by collecting such amount not exceeding three times of the guideline value of the land, as may be prescribed. Further, the petitioner requested the first respondent to grant stay of all further proceedings until the appeal under section 80A is decided on merits and to consider the application for regularisation under section 113C of the Town and Country Planning Act. However, no orders have been passed either in the stay application or appeal, till date. Therefore, the learned senior counsel prayed for appropriate orders, to protect the interest of the petitioner.

4. On the above submissions, we have heard Mr.A.M.Ayyadurai, learned Government Advocate for the first respondent, Mr.R.Sivakumar, learned Standing Counsel for the second respondent and Mrs.Vaitheeswari, learned Standing Counsel for the third respondent and also perused the documents enclosed in the typed set of papers.

5. Considering the facts and circumstances of the case and having regard to the admitted position that the appeal filed by the petitioner is pending consideration before the first respondent, this court, without going into the merits of the case, directs the second respondent to consider the stay application filed by the petitioner, if not considered earlier, and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner, within a period of two weeks from the date of receipt of a copy of this order. Till such time, no coercive steps shall be taken by the respondent authorities against the petitioner.



6. This writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

KST/RPP

To

- 1.The Secretary, Government of Tamil Nadu
Housing and Urban Development Department
Fort St.George, Chennai 600 009.
- 2.The Member Secretary, Chennai Metroplitan Development Authority
Thalamuthu Natarajan Building, No.1, Gandhi Irwin Road
Egmore, Chennai 600 008.
- 3.The Principal Secretary / The Commissioner
Greater Chennai Corporation, Rippon Building, Chennai 600 003.

+2ccs to Mr.Vikram Veerasamy, Advocate SR.No.31071

+1cc to Government Pleader SR.No.31306

W.P.No.12005 of 2022

KJ(CO)
GMY(25/05/2022)