



W.P.No.22169 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.08.2022

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THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.22169 of 2022 and W.M.P. Nos.21179 and 21180 of 2022

1.H.Rakesh Kumar

2.H.Suresh Kumar

3.H.Inderchand

... Petitioners

VS

1.The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai – 600 003.

2.The Executive Engineer,
Zone-XIII, Greater Chennai Corporation,
No.115, Dr.Muthulakshmi Salai,
Adyar, Chennai-600 020.

3.The Assistant Executive Engineer,
Unit-38, Zone-XIII,
Greater Chennai Corporation,
No.115, Dr.Muthulakshmi Salai,
Adyar, Chennai-600 020.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the respondents to grant Demolition and Reconstruction Plan in respect of the immovable property bearing Plot No.93, Door No.10, Lakshmipuram, 4th street, Thiruvanmiyur, Chennai-600 041, by considering the petitioners'



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application dated 11.08.2022 vide OBPA/03/03238/2022 for demolition and reconstruction of the building and not to take any coercive action till then.

For Petitioners : Mr.L.Chandrakumar

For Respondents : Mr.D.B.R.Prabhu,
Standing Counsel

ORDER

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

This writ petition has been filed by the petitioners seeking a direction to the respondents to grant Demolition and Reconstruction Plan in respect of the immovable property, bearing Plot No.93, Door No.10, Lakshmipuram, 4th street, Thiruvanmiyur, Chennai-600 041, by considering their application dated 11.08.2022 vide OBPA/03/03238/2022 for demolition and reconstruction of the building and not to take any coercive action till then.

2.Learned counsel appearing for the petitioners submitted that the petitioners' father M.Hiralal had purchased the property at Plot No.93, Door No.10, Lakshmipuram, 4th Street, Thiruvanmiyur, Chennai-600 041 from his vendor vide registered Sale Deed dated 17.11.2004. Since the said building in a dilapidated condition, the petitioners' father demolished the old building and put up ground + two floors for their residential purposes. In this regard, the petitioners' father engaged a builder in the year 2019 and submitted an



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application before the competent authority for approval of the subject building by paying the necessary fees. Since there was a delay in issuing planning permission, the builder had commenced the construction activity and completed the same before getting approval from the competent authority. At the time of construction, there was a dispute between the builder, engaged by their father and one D.Albert Raj, who had given a complaint to the respondents Chennai Corporation against the said building. Based on the said complaint, the respondents Chennai Corporation had issued a Pre-Notice dated 21.08.2019 under Sections 56 and 57 read with 85 of the Tamil Nadu Town and Country Planning Act, 1971 and also issued a lock and seal and demolition notice dated 30.10.2019 alleging un-authorised construction and calling upon the petitioners to restore the land to its condition before the construction took place within 30 days from the date of receipt of above notice, making it clear that further action will be taken against the building to seal the building under the provisions of Section 57(4) of the above Act in case of failure to do so. After knowing the above notices, the petitioners' father had given a detailed reply narrating the material facts and also filed an Appeal under Section 80-A before the Secretary, Housing and Urban Development Department, who had disposed of the above Appeal vide order dated 15.12.2021 granting permission to the petitioners' father to rectify the



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defects in the building and to obtain necessary planning permission as per the Tamil Nadu Combined Development Building Rules, 2019.

Pursuant to the de-occupation notice dated 02.11.2021 issued by the respondents, the petitioners' father filed a writ petition in W.P. No.9060 of 2022 before this Court seeking a direction to the respondents to restrain from locking and sealing of the premises and the same was disposed of by this Court vide order dated 12.04.2022 granting three months time to carry out the rectification. Due to the illness of the petitioners' father and the intervening Covid-19 pandemic situation, the petitioners were not able to carry out the rectification. As the rectification will lose the stability of the building, the petitioners have decided to demolish the entire building and to raise a new building, after getting necessary planning permission from the competent authorities, for which, an application dated 11.08.2022 has been submitted by the petitioners through online by paying necessary charges at Rs.375/-, which shows the bonafide of the petitioners for demolition and reconstruction of the building.

3.Heard both sides.

4.It could be seen from the records that the petitioners, after suffered the order of lock and sea,l followed by the de-occupation



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notices, which also culminated in an order passed under Section 80-A of the Tamil Nadu Town and Country Planning Act, have come to this Court with W.P. No.9060 of 2022 seeking a direction to the respondents to restrain from locking and sealing of the subject premises. Pursuant to the disposal of the above writ petition granting three months time to the petitioners to carry out the rectification, in view of the Covid-19 pandemic situation and the deviations made by the promoter/builder, the petitioners are not able to comply with the directions issued by this Court. Therefore, they are now before this Court with the above prayer. Accepting the request made by the petitioners that they would demolish the entire building and carry out the defects pointed out by the respondents, we hereby direct the respondents to consider the petitioners' application dated 11.08.2022 within a period of three weeks from the date of receipt of a copy of this order. Till such time, status quo as on today shall be maintained by both the parties.

5. With the above observation and direction, this writ petition stands disposed of. Consequently, connected W.M.Ps stand closed. No costs.

[T.R.,J.] [K.B.,J.]
25.08.2022

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**T.RAJA,J.
and
K.KUMARESH BABU,J.**

vga

To

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