

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 03.01.2022

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P.No.28019 of 2021

Kamalabai

... Petitioner

-vs-

1.The Commissioner
Greater Chennai Corporation
Ripon Building
Chennai - 600 079.

2.The Executive Engineer
Zone VIII, Greater Chennai Corporation
Shenoy Nagar
Chennai - 600 030.

3.The Secretary to the Government
Housing & Urban Development Department
Fort George
Chennai - 600 009.

... Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to De-seal the lock and seal at the petitioner's property situated at No.194, Vellala Street, Purasaivakkam, Chennai - 600 084, so as to enable the petitioner to rectify and restore the subject property in consonance with the planning permission as per the Devolvment Regulations and to submit a revised plan on the basis of the petitioner's representation dated 12.11.2021

For petitioner : Mr.V.Jai Bharath

For respondents : Mr.K.Raja Srinivas
Senior Standing Counsel for R1 &2
Mr.K.V.Sajeev Kumar
Special Government Pleader
for R3

ORDER

(Order of the Court was made by K.KALYANASUNDARAM, J.,)

Heard Mr.V.Jai Bharath, learned counsel for the petitioner; Mr.K.Raja Srinivas, learned Senior Standing Counsel appearing for the respondents 1 & 2 and Mr.K.V.Sajeev Kumar, learned Special Government Pleader appearing for the 3rd respondent.

2.This writ petition has been filed for issuance of writ of mandamus, directing the respondents to De-seal the lock and seal put up at the premises bearing No.194, Vellala Street, Purasaivakkam, Chennai - 600 084.

3.The petitioner would state that she is the absolute owner and she is in possession and enjoyment of the subject property. It is her further case that after obtaining planning permission and building approval from the concerned authorities, completed construction. However, the respondents on 23.04.2015 affixed the lock & seal notice in pursuant to the De-occupation notice issued on 19.12.2014. Challenging the same, she has preferred an appeal/special revision before the Government under Section 80 (A) of the Tamil Nadu Town and Country Planning Act.

4.The learned counsel for the petitioner would state that the petitioner is ready to rectify the trivial deviations in consonance with the planning permission. It is also stated by the learned counsel that in similar facts, this Court has issued direction to De-seal the premises in W.P.No.21364 of 2021 vide order dated 05.10.2021.

5.Mr.K.Raja Srinivas, learned Senior Standing Counsel, appearing for the respondents 1 and 2 submitted that the authorities have found that the petitioner has violated the approved plan, hence, the respondents initiated action and there is no illegality.

6.However, in the light of the facts and circumstances of the case, this Court is of the view that the petitioner shall withdraw the appeal within a period of two weeks from the date of receipt of a copy of this order and thereafter, the respondents are directed to remove the lock and seal affixed on 23.04.2015, within a period of two weeks, so as to enable the petitioner to remove the part of the construction, which is not in conformity with the approved plan. Thereafter, the petitioner would be given a period of eight weeks from the date of de-sealing to undertake the said exercise. Needless to state that if the petitioner does not carry out the directions as stated above, the respondents shall seal the premises in question once again.

7.With the above directions, this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner
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Chennai - 600 079.

2.The Executive Engineer
Zone VIII, Greater Chennai Corporation
Shenoy Nagar
Chennai - 600 030.

3.The Secretary to the Government
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Fort George
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+2cc to Mr.V.Jai Bharath, Advocate, S.R.No.183

W.P.No.28019 of 2021

GM(CO)
CT 28/01/2022