



WP.No.28834/2022

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MRS. JUSTICE N.MALA

WP.No.28834/2022 & WMP.No.28124/2022

Mukesh Kumar

.. Petitioner

Vs.

- 1.The State rep.by
The Secretary to Government
Housing & Urban Development
Department, Secretariat,
Fort St George, Chennai 600 009.
- 2.The Commissioner
Greater Chennai Corporation
Rippon Buildings,
Chennai 600 003.
- 3.The Executive Engineer,
Town Planning,
Greater Chennai Corporation,
Zone-VIII,
2nd Cross Street (East), Pulla Avenue,
Shenoy Nagar,
Chennai – 600 030.



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4.The Assistant Executive Engineer,
Unit-21, Zone-VIII,
Greater Chennai Corporation,
Shenoy Nagar,
Chennai – 600 030.

5.The Assistant Engineer,
Division 95 Zone-VIII,
Greater Chennai Corporation,
Shenoy Nagar,
Chennai – 600 030.

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus for directing the 1st respondent to take up and dispose the stay petition filed in statutory review under Section 80-A of Tamilnadu Town and Country Planning Act vide acknowledgement dated 23.06.2022 preferred against impugned notice dated 06.04.2022 bearing Notice No.ZONE-VIII/TPENF/C.No./0423/2022 issued for Lock and seal and demolition which was served to the petitioner on 20.05.2022.

For Petitioner	:	Mr.R.Thirumoorthy
For R1	:	Mrs.M.Geetha Thamaraiselvan Special Government Pleader
For RR 2 to 5	:	Mrs.P.T.Ramadevi Standing counsel



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ORDER

[Order of the Court was made by S.S.SUNDAR, J.,]

- (1) Mrs.M.Geetha Thamaraiselvan, learned Special Government Pleader accepts notice on behalf of the 1st respondent and Mrs.P.T.Ramadevi, learned Standing counsel accepts notice on behalf of respondents 2 to 5.
- (2) This writ petition is filed for issuance of a writ of mandamus to direct the 1st respondent to take up and dispose the stay petition filed in statutory review under Section 80-A of Tamilnadu Town and Country Planning Act vide acknowledgement dated 23.06.2022 preferred against impugned notice dated 06.04.2022 bearing Notice No.ZONE-VIII/TPENF/C.No./0423/2022 issued for Lock and seal and demolition which was served to the petitioner on 20.05.2022.
- (3) The petitioner states that he is the owner and in absolute possession of the property bearing Shop No.A, Plot No.1879A, 18th Main Road, Anna Nagar West, Chennai-600 040. It is stated that the respondents have initiated action for removal of unauthorised constructions stating that the construction put up by the petitioner



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is in deviation of the approved plan. By order dated 06.04.2022, the petitioner was asked to secure the compliance with the sanctioned plan to show that the petitioner has not put up any unauthorised construction without adhering to the building rules or planning permission. This order is taken up by way of review and it is stated that the 1st respondent is seized of the revision application filed by the petitioner under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971. Stating that the petitioner has sought for interim stay of further proceedings pursuant to the impugned notice dated 06.04.2022 and that the application is not yet disposed of by the 1st respondent, the petitioner has filed the above writ petition.

- (4) This Court heard the learned counsel for the petitioner and the learned respective counsels appearing for the respondents and also perused the materials placed before it.
- (5) Section 80-A of the Town and Country Planning Act, 1971, reads as follows:-

"80-A. Special Powers of Government.- (1)



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Notwithstanding anything contained in section 80, the Government may, on application, call for and examine the records of the appropriate planning authority in respect of sealing of the premises under sub-section (2- A) of section 56 or under section (4) of section 57 and if, in any case, it appears to the Government that any such action or decision should be modified, annulled, reversed or remitted for reconsideration, they may pass orders accordingly.

Provided that every application to the Government for the exercise of the powers under this section shall be preferred within thirty days from the date of sealing.

Provided further that such application for revision shall be disposed of by the Government within ninety days from the date of receipt of the application.

(2) No order prejudicial to any person shall be passed under sub-section (1) unless such person has been given an opportunity of making his representation.

(3) The Government may pass such interim order, as they deem fit, pending the exercise of the powers under sub-section (1) in respect thereof."

(6) When an application is filed before the Government for the exercise of its power challenging the order of appropriate planning authority



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in respect of sealing of premises under sub-section [2-A] of Section 56 or sub-section 4 of Section 57 of the Act, the 1st respondent may also consider grant of any interim order pending exercise of the powers under sub-section [1] of Section 80-A of the Act. Therefore, the request of the petitioner is in accordance with Section 80-A [3] of the Act.

- (7) The learned counsel appearing for the respondents have dispute with regard to the pendency of the application filed under Section 80-A of the Act before the 1st respondent.
- (8) Therefore, this Court is inclined to dispose of the writ petition with the following directions:
- (9) The 1st respondent is directed to consider the application filed by the petitioner for grant of interim order particularly in the nature of staying the further proceedings pursuant to the impugned notice dated 06.04.2022 after affording sufficient opportunity to the petitioner and pass appropriate orders on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. **Till such time the application is considered by**



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the 1st respondent on merits, there shall not be any coercive action either by locking and sealing of the premises or by demolishing the same.

- (10) The writ petition stands **allowed**. No costs. Consequently, connected miscellaneous petition is closed.

[SSSRJ] [NMJ]

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AP

Internet : Yes



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