



W.P.No.29865 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.29865 of 2022
and
W.M.P.No.29252 of 2022

Nilesh R.Shah

...Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. By its Secretary,
Housing and Urban Development Department,
Fort St.George, Chennai – 600 009.

2.Chennai Metropolitan Development Authority,
Rep. By its Member Secretary,
No.1, Gandhi Irwin road,
Egmore, Chennai – 600 008.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Mandamus, forbearing the 2nd respondent from in any way interfering with the building put up at No.5, Sattanna Naicken Street, Nehru Timber Market Road, Choolai, Chennai – 600 112 comprised in R.S.No.1319/76 & 1319/77 R.S.No.1319/65 in Block No.35 of Vepery



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Village more particularly by way of locking, sealing and demolition of the same, pending final determination of petitioner's Special Revision Petition and stay petition dated 23.09.2022 acknowledged by the 1st respondent on 26.09.2022 filed under Section 80(A) and 80A(3) of the Tamil Nadu Town and Country Planning Act with the 1st respondent.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.Vadivelu Deenadayalan

Additional Government Pleader for R1

Mr.C.N.Vinobha for R2

ORDER

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

The prayer in the Writ Petition reads as follows:-

forbearing the 2nd respondent from in any way interfering with the building put up at No.5, Sattanna Naicken Street, Nehru Timber Market Road, Choolai, Chennai – 600 112 comprised in R.S.No.1319/76 & 1319/77 R.S.No.1319/65 in Block No.35 of Vepery Village more particularly by way of locking, sealing and demolition of the same, pending final determination of petitioner's Special Revision Petition and stay petition dated 23.09.2022 acknowledged by the 1st respondent on 26.09.2022 filed under Section 80(A) and 80A(3) of the Tamil Nadu Town



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and Country Planning Act with the 1st respondent.

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2.The petitioner is forced to approach this Court with this Writ Petition in view of the failure on the part of the statutory authority namely, the Secretary, Housing and Urban Development Department to exercise the powers invested in it under Section 80(A)(iii) of the Tamil Nadu Town and Country Planning Act.

3.Admittedly, the special revision filed by the petitioner is pending. If any coercive measure is taken during the pendency of the revision, it may render the revision infructuous. We come across cases where the enforcing authorities namely, the Chennai Metropolitan Development Authority as well as the Greater Chennai Corporation, have deferred coercive action because of the pendency of revisions under 80-A of the Tamil Nadu Town and Country Planning Act. It is open to the Government to either grant or refuse stay. By not passing orders in such petitions the discretion is left with the enforcement authorities, which in our opinion, is not desirable.

4.Hence, there will be a mandamus forbearing the 2nd respondent



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namely, the Chennai Metropolitan Development Authority from taking any coercive action till disposal of the Special Revision filed under Section 80-A of the Tamil Nadu Town and Country Planning Act.

5.This Writ Petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.M.,J.) (K.B.,J.)
11.11.2022

kkn

Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order



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To:-

- 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,
No.1, Gandhi Irwin road,
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