



WEB COPY



W.P.No.34714 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.34714 of 2022
and
W.M.P.No.34132 of 2022

Jayaseeli Rajendran

.. Petitioner

Vs.

- 1.The Commissioner
Greater Chennai Corporation
Rippon Building, Periyamet
Chennai – 600 003.
- 2.The Executive Engineer
Zone-14, Greater Chennai Corporation
Puzhithivakkam Main Road,
Perungudi, Chennai – 600 091.
- 3.The Assistant Engineer
Division – 191 Zone – 14
Greater Chennai Corporation
Veerathaaman Kovil Street
Jalladiyanpet, Chennai-600100.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling



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for the records in De-Occupation Notice dated 13.12.2022 by Letter No.14/00101/2022 issued by the 2nd and 3rd Respondents to quash the same and consequently allow the Building Plan Approval in Application No:PPA/WDCN14/04682/2022 dated 21.05.2022 on the file of the 1st respondent.

For Petitioner : Mr.G.Janakiraman
for Mr.R.P.Prathap Singh

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

ORDER

(Order of the Court was delivered by V.M.VELUMANI, J.)

The present writ petition is filed to call for the records in De-occupation Notice dated 13.12.2022 by Letter No.14/00101/2022 issued by the 2nd and 3rd Respondents to quash the same and consequently allow the Building Plan Approval in Application No:PPA/WDCN14/04682/2022 dated 21.05.2022 on the file of the 1st respondent.

2. By consent of both the learned counsel appearing for the petitioner as well as Mr.D.B.R.Prabhu, learned Standing Counsel, who



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takes notice for the respondents, this Writ Petition is taken up for final disposal at the admission stage itself.

3. Heard the learned counsel appearing for the petitioner as well as learned Standing Counsel appearing for the respondents and perused the entire materials on record.

4. According to the petitioner, she and her father purchased the land bearing No.1/836, Lakshmi Nagar Main Road, Jalladiyanpet, Chennai by sale deed bearing Document No.1025/1991 to an extent of 3185 sq.ft. and constructed residential house after obtaining planning permission dated 19.07.2002. The property was assessed to property tax and she is paying the property tax regularly to the Corporation of Chennai. She gave application for permission for additional construction. The said application is pending from August 2021. Pending application, she started construction under the impression that permission was granted. She had some dispute with her neighbour who started construction without any approval and permission. The petitioner's application for permission was rejected stating that her request cannot be considered due to land dispute between the petitioner and her neighbour.



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According to the petitioner, she has not violated any of the provisions of the Act and Rules. She has left sufficient side set back and there are number of trees in her house. While so, at the instigation of her neighbour, the respondents 2 and 3 have issued de-occupation notice under Section 56 – Sub Section 2(A) and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 (as amended by Act 61 of 2008) dated 13.12.2022. The learned counsel appearing for the petitioner submitted that the petitioner will file an appeal under Section 80(A) of the Tamil Nadu Town and Country Planning Act, 1971 to the Government and in the meantime, the respondents are taking coercive steps against the petitioner and hence, the petitioner has come out with the present writ petition.

5. Mr.D.B.R.Prabhu, learned Standing Counsel appearing for the respondents submitted that the impugned notice is an appealable one and the writ petition is not maintainable and prayed for dismissal of the writ petition.

6. Considering the materials available on record and the contention of the learned counsel appearing for the petitioner and the learned



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Standing Counsel appearing for the respondents, the petitioner is given liberty to file an appeal under Section 80(A) of the Tamil Nadu Town and Country Planning Act, 1971 before the Secretary to Government, Housing and Urban Development Department, Chennai within a period of two weeks from the date of receipt of a copy of this order. If any such appeal is filed, the Secretary to Government, Urban and Housing Development Department, Chennai is directed to dispose of the appeal as expeditiously as possible in any event within a period of three months from the date of receipt said appeal. Till such time, the respondents are restrained from taking any coercive steps against the petitioner.

7. With the above directions, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

(V.M.V., J) (R.H., J)
23.12.2022

Index : Yes / No
Internet : Yes / No
dm



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V.M.VELUMANI, J.
and
R.HEMALATHA, J.

dm

To

- 1.The Commissioner
Greater Chennai Corporation
Rippon Building, Periyamet
Chennai – 600 003.
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Zone-14, Greater Chennai Corporation
Puzhithivakkam Main Road,
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Copy to

The Secretary to the Government,
Housing and Urban Development (H&UD) Department,
Secretariat, Chennai - 600 009.

23.12.2022