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W.P.No.4002 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.4002 of 2023

and

W.M.P.No.4054 of 2023

Karunambal Vanavaraayar

.. Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Housing and Urban Development Department,
Chennai – 600 009.

2.The Commissioner,
Greater Chennai Corporation,
Chennai.

3.The Executive Engineer,
Zone-X, Greater Chennai Corporation,
Chennai.

4.The Assistant Executive Engineer,
Unit-30, Greater Chennai Corporation,
Chennai.

5.The Assistant Engineer,
D-IV, 133,
Greater Chennai Corporation,
Chennai.

.. Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, forbearing the Respondents from locking and sealing the premises at admeasuring 2 grounds and 1920 sq.ft. comprised in R.S.No.29, 30 and 38 part, T.S.No.5395, Block No.122 of Thyagaraya Nagar Village, Sir Thyagaraya Road, Chennai till the appeal dated 20.01.2023 before the 1st Respondent therein is disposed of and quash the same.

For Petitioner : Mrs.A.L.Ganthimathi
Senior Counsel
for Mr.L.Palanimuthu

For R1 : Mrs.R.L.Karthika
Government Advocate

For RR 2 to 5 : Mr.D.B.R.Prabhu
Standing Counsel

ORDER

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

The petitioner has come out with the present Writ Petition forbearing the respondents from locking and sealing of the premises admeasuring 2 grounds and 1920 sq.ft. comprised in R.S.No.29, 30 and 38 part, T.S.No.5395, Block No.122 of Thyagaraya Nagar Village, Sir Thyagaraya Road, Chennai, till the appeal dated 20.01.2023 before the 1st respondent is disposed of and to quash the same.



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2.By consent of learned Senior Counsel appearing for the petitioner, Mrs.R.L.Karthika, learned Government Advocate, who takes notice for 1st respondent and Mr.D.B.R.Prabhu, learned Standing Counsel, who takes notice for respondents 2 to 5, this Writ Petition is taken up for final disposal at the admission stage itself.

3.Heard the learned Senior Counsel appearing for the petitioner, learned Government Advocate appearing for 1st respondent and the learned Standing Counsel appearing for respondents 2 to 5 and perused the entire materials on record.

4.According to the petitioner, she is the owner of the land and building measuring about 2 grounds and 1920 sq.ft comprised in R.S.No.29, 30 and 38 part, T.S.No.5395, Block No.122 of Thyagaraya Nagar Village, Sir Thyagaraya Road, Chennai, who got the same through settlement deed dated 25.06.2008, settled in her favour by her father Dr.N.Magalingam in the year 2008. The said property was purchased by her father Dr.N.Mahalingam in the year 1947, by sale deed dated 23.01.1947 registered as Document No.55 of 1947 at SRO, T.Nagar, Chennai. Subsequent to purchase of said land, her father got approval in



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the year 1960 for construction of basement + two floors and construction was put up as per the approval plan. Another building was constructed in the year 1988 with ground + two floors and both the buildings are approved, totalling to an extent of 12,643 sq.ft. Thereafter, the said building was leased out to Sakthi Finance Limited and to Hotel Saravana Bhavan. Thereafter, Hotel Saravana Bhavan was closed and now Kancheepuram Varamahalakshmi Silks has been inducted as tenant in the said building. For the purpose of converting the said place to a textile shop, some internal and interior arrangements were modified and renovation of the building was done.

4(i).The respondents 3 & 4 issued Stop Work Notice dated 14.11.2022, under Sections 56(1) and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972 as amended by Act 61 of 2008) to produce a copy of the approved plan and if no approved plan is available or construction is in deviation to the approved plan, to stop the work immediately within 15 days from the date of receipt of the said notice, failing which legal action against the construction including locking and sealing of the premises will be done. The said notice dated 14.11.2022 was received by a



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Watchman and it was not brought to the notice of the petitioner. The respondents 3 to 5 on 23.12.2022, issued lock and seal and demolition notice, under Section 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 (as amended by Act 61 of 2008), alleging that the construction in the said premises has been carried out without planning permission required under Section 49 of the Town and Country Planning Act, 1971 and the petitioner was called upon to restore the land to its condition before the said construction took place within 30 days from the date of receipt of the notice, filing which action will be taken under Section 57(4) of the Tamil Nadu Town and Country Planning Act, 1971, to lock and seal the premises and to demolish to restore the land to its condition.

4(ii).The construction was put up during the years 1960 and 1988 and no inspection has been done at the premises. Only renovation work has been done in accordance with vastu compliance for the purpose of running a textile shop in the name and style of Kancheepuram Varamahalakshmi Silks. The building does not cause any hardship or any inconvenience to the public and no construction was put up in violation of the approved plan. Therefore, the petitioner filed an appeal before the



1st respondent under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 on 20.01.2023. Since, no order has been passed in the said appeal, the petitioner has come out with the present Writ Petition.

5.Mrs.R.L.Karthika, learned Government Advocate appearing for the 1st respondent submitted that the petitioner's appeal dated 20.01.2023 filed under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 will be considered and necessary orders will be passed in accordance with law.

6.Considering the above submissions of the learned Senior Counsel appearing for the petitioner, learned Government Advocate appearing for the 1st respondent and the learned Standing Counsel appearing for respondents 2 to 5, the 1st respondent is directed to consider the appeal of the petitioner dated 20.01.2023 and pass orders on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order. Till such time, the respondents 2 to 5 are restrained from taking any coercive steps against the petitioner.

7.With the above directions, the Writ Petition is disposed of.



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Consequently, the connected Miscellaneous Petition is closed. No costs.

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(V.M.V., J) (R.H., J)
13.02.2023

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

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V.M.VELUMANI, J.



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