



W.P.No.3151 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

Writ Petition No.3151 of 2023
and W.M.P.No.3209 of 2023

K.Thilagavathy

.. Petitioner

Vs.

1.The State represented by its Secretary
Housing and Urban Development Authority
Secretariat, Chennai-600 009.

2.The Commissioner
Avadi City Municipal Corporation
Town Planning Authority
Avadi, Chennai-600 054.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the 2nd respondent from taking any coercive action including demolish and lock & seal with respect to Survey Nos.698/1A1 and 698/1A2 bearing door No. Plot No.76A, Subash street, Devi Nagar, Thirumullaivoyal, Chennai-600 062 till the pending revision petition before the 1st respondent filed



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by the petitioner dated 10.01.2013 and consequently, directing the 1st respondent to pass orders on the revision petition filed by the petitioner dated 10.01.2023.

For Petitioner : Mr.Balan Haridoss
for Mr.S.Jim Raj Milton
For R1 : Mr.P.Gurunathan
Additional Government Pleader
For R2 : Ms.R.L.Karthika
Government Advocate

ORDER

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

The petitioner has come out with the present writ petition for a direction to the 2nd respondent from taking any coercive action including demolish and lock & seal with respect to Survey Nos.698/1A1 and 698/1A2 bearing door No. Plot No.76A, Subash street, Devi Nagar, Thirumullaivoyal, Chennai-600 062 till the pending revision petition before the 1st respondent filed by the petitioner dated 10.01.2013 and a direction to the 1st respondent to pass orders on the revision petition filed by the petitioner dated 10.01.2023.



2.By consent of the learned counsel appearing for the petitioner as well as Mr.P.Gurunathan, learned Additional Government Pleader, who takes notice for the 1st respondent and Ms.R.L.Karthika, learned Government Advocate, who takes notice for the 2nd respondent, the Writ Petition is taken up for final disposal at the stage of admission itself.

3.Heard the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the 1st respondent and the learned Government Advocate appearing for the 2nd respondent and perused the entire materials on record.

4.According to the petitioner, she is owner of the property in S.Nos.698/1A1 and 1A2, T.S.No.2/2, plot No.76A, Subash Street, Devi Nagar, Thirumullaivoyal, Chennai-600 062 measuring 1217 sq.ft. She engaged a contractor and constructed ground + 2 floors. The contractor informed that he obtained permission for construction of ground + 2 floors. Based on the same, the petitioner obtained housing loan from the State Bank of India, put up ground + two floors and completed construction in the year 2009. The property was assessed to property tax from the year 2009. Plot No.75, Subash Street, Devi Nagar,



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Thirumullaivoyal, Chennai-600 062 is owned by one S.Sumathi and P.Senthil Kumar. They constructed the building without any approval and leaving set back area. The said construction has obstructed air and light to the petitioner's house. Hence, the petitioner sent representations to the 2nd respondent. But the 2nd respondent did not take any action against the said S.Sumathi and P.Senthil Kumar. Hence, the petitioner filed writ petition No.12015 of 2022 for a direction to the respondents to consider the representations of the petitioner and to initiate action against the said S.Sumathi and P.Senthil Kumar. This Court, by the order dated 05.05.2022 directed the 2nd respondent to consider the petitioner's representations and pass orders in accordance with law.

5.The learned counsel appearing for the petitioner submitted that after discharging the loan, when the petitioner got the documents from the Bank, she found that second floor was constructed without any approval. The petitioner gave a revised plan under Section 49 of the Tamil Nadu Town and Country Planning Act, 1971 to the 2nd respondent. The said application was rejected by the 2nd respondent on the ground that patta is not in the name of petitioner. When she approached the Tahsildhar, she was informed that her name is in existence only in the



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manual patta and not in the computerised patta. While uploading in the computer, error has crept in and her name is not in the computerised patta. The petitioner approached the Revenue Divisional Officer, District Revenue Officer and Tahsildhar for correction of patta, they informed that there is some error and the same has to be corrected. As per the report dated 20.08.2021, the Surveyor, Avadi confirmed that there is an error and the same needs to be corrected. But it was not rectified by the Officials. In the mean time, on the complaint given by the neighbours, the 2nd respondent issued stop work notice dated 10.01.2023 as petitioner is putting up fresh construction. Challenging the said notice, the petitioner has filed revision before the 1st respondent under Section 80A of the Tamil Nadu Town and Country Planning Act. The 2nd respondent is threatening the petitioner that he will demolish the building. In such circumstances, the petitioner has come out with the present writ petition.

6.Considering the above submissions and the fact that petitioner has filed revision before the 1st respondent under Section 80A of the Tamil Nadu Town and Country Planning Act and the same is pending from 10.01.2023, the 1st respondent is directed to dispose of the revision filed by the petitioner, after giving opportunity to the petitioner as well as



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the said S.Sumathi and P.Senthil Kumar within six months from the date of receipt of a copy of this order. Till such time, the 2nd respondent is restraining from taking any coercive steps against the petitioner.

7.With the above directions, the writ petition stands disposed of.

No costs. Consequently, connected Miscellaneous Petition is closed.

(V.M.V., J) (R.H., J)
06.02.2023

Index : Yes/No

Neutral Citation : Yes/No

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To

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Avadi City Municipal Corporation
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**V.M.VELUMANI,J.
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