



WEB COPY



W.P.No.3470 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.02.2023

CORAM

THE HONOURABLE Ms. JUSTICE V.M.VELUMANI
AND

THE HONOURABLE Mrs. JUSTICE R.HEMALATHA

W.P.No.3470 of 2023

S.Usha

.. Petitioner

Vs.

1.The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008

2.The Commissioner
Corporation of Chennai
Rippon Buildings
Chennai 600 003

3.The Zonal Officer
Corporation of Chennai
Zone-10, NSK Salai, Kodambakkam High Road
Chennai 600 024

4.The Tamil Nadu Housing & Urban Development Department
Secretariat, Chennai 600 009

5.G.Thyagarajan

.. Respondents



W.P.No.3470 of 2023

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus, directing the 4th respondent to afford an opportunity to the writ petitioner with a personal hearing and dispose of the appeal under Section 80-A preferred by the 5th respondent bearing No.5811, within a time frame as may be fixed by this Hon'ble Court.

For Petitioner : Mr.Abhinav Parthasarathy
For 1st Respondent : Mr.P.Sesubalan Raja
for M/s.Siva & Sesu Associates
For R2 and R3 : Mr.D.B.R.Prabhu
Standing Counsel
For 4th Respondent : Mr.A.Selvendran
Special Government Pleader

ORDER

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

Writ Petition is filed for a direction to the 4th respondent to dispose of the Revision filed by the 5th respondent bearing No.5811 under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, within a time frame as may be fixed by this Court.



W.P.No.3470 of 2023

2. By consent of both the learned counsel appearing for the petitioner as well as Mr.P.Sesubalan Raja, learned counsel, who takes notice for R1, Mr.D.B.R.Prabhu, learned Standing Counsel, who takes notice for R2 and R3 and Mr.A.Selvendran, learned Special Government Pleader, who takes notice for R4, the Writ Petition is taken up for final disposal at the stage of admission itself.

3. According to the petitioner, she is the owner of flat No.2, old No.51/2, new No.58/2, 11th Avenue, Ashok Nagar, Chennai, constructed by the Tamil Nadu Housing Board. There are four blocks. The 5th respondent is the owner of flat No.4, which is in the first floor. All the flat owners have a common passage and are entitled to use common area. While so, the 5th respondent, who is a road contractor has raised his ground level by 2 feet and erected pillars in the common area. During night hours, the 5th respondent used to park heavy vehicles like JCB, road rollers in the common area. The vibration of moving of the said vehicles affect the flats, which have been built in the year 1970. In this regard, the petitioner gave a complaint on 28.11.2021 to the respondents 2 and 3.



W.P.No.3470 of 2023

WEB COPY

4. The learned counsel appearing for the petitioner submitted that based on the complaint given by the petitioner, the 2nd respondent has issued a lock & seal and demolition notice dated 09.02.2022 and a de-occupation notice dated 15.03.2022 to the 5th respondent. Against the said notices, the 5th respondent has filed a revision under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, on 30.03.2022 before the 4th respondent. The 4th respondent has not granted any interim order in the said revision. However, the respondents 2 and 3 are not taking any action against the 5th respondent. In such circumstances, the petitioner has given a representation to the 4th respondent for speedy disposal of the said revision. Since no order is passed on the said revision, the petitioner has come up with the present writ petition.

5. Considering the above submissions of the learned counsel appearing for the petitioner and also the limited relief sought for by the petitioner, the 4th respondent is directed to dispose of the revision filed by the 5th respondent under Section 80-A of the Tamil Nadu Town and Country



W.P.No.3470 of 2023

Planning Act, 1971, within three months from the date of receipt of a copy of this order, after giving an opportunity to the 5th respondent as well as the petitioner.

With the above directions, the writ petition is disposed of. No costs.

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

08.02.2023

Internet : Yes / No
Neutral citation : Yes/No
gya

To
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5/6



WEB COPY



W.P.No.3470 of 2023

V.M.VELUMANI, J.
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W.P.No.3470 of 2023

08.02.2023