



WEB COPY

W.P.No.6340 of 2018



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

and

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.No.6340 of 2018

and

W.M.P.No.7892 of 2018

Deivanayaki

.. Petitioner

Vs.

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

2.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maligai,
No.1, Gandhi Irwin Road,
Egmore, Chennai – 600 008.

3.N.K.Suresh Kumar

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, forbearing the 2nd Respondent herein from locking and sealing the premises and de-occupying the Petitioner from the premises situate at Old Door No.72,



New Door No.149, Linghi Chetty Street, Mannady, Chennai – 600 001,
pursuant to the notice bearing letter No.EC/N-I/11916/2015, dated
13.03.2018 of the 2nd Respondent herein issued by him till the appeal
dated 15.03.2018 filed by Petitioner before the 1st Respondent under
Section 80A of the Tamil Nadu Town and Country Planning Act, 1971 is
decided on merits and in accordance with law.

For Petitioner	: Mr.P.Ravi
For R1	: Ms.R.L.Karthika Government Advocate
For R2	: Mr.C.N.Vinobha 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 2nd respondent from locking and sealing the premises and
de-occupying the petitioner from the premises situate at Old Door No.72,
New Door No.149, Linghi Chetty Street, Mannady, Chennai – 600 001,
pursuant to the notice bearing letter No.EC/N-I/11916/2015, dated
13.03.2018 of the 2nd respondent herein issued by him till the appeal
dated 15.03.2018 filed by petitioner before the 1st respondent under
Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971,
is decided on merits and in accordance with law.



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2. According to petitioner, her husband is the owner of the property situate at Old Door No.72, New Door No.149, Lingichetty Street, Mannadi, Chennai – 600 001, measuring to an extent of 1800 sq.ft. After the death of her husband, the petitioner and her daughter became the absolute owners of the said property and they jointly applied for planning permission to put up construction and the permission was granted on 20.06.1994 in PPA/2377/1994 for ground + one floor commercial and residential building. Thereafter, the petitioner put up construction of ground + three floors in the year 1995. Property tax was assessed and electricity connection was also granted for the said building and the petitioner let out some portions to tenants.

2(a). While so, the 2nd respondent issued notice dated 20.07.2015, calling for the approved plan from the petitioner. On receipt of the said notice, the petitioner met the 2nd respondent in person and produced the approved plan. Thereafter, the 3rd respondent herein filed W.P.No.13663 of 2017 against the petitioner and two others for a direction to the 3rd respondent therein (2nd respondent herein) to lock and seal or demolish the illegal and unauthorized construction of third floor at Door No.72/1, Linghi Chetty Street, Mannady, Chennai – 600 001. The Division Bench



of this Court by the order dated 02.06.2017, directed the 3rd respondent therein (2nd respondent herein) to inspect the building within a fortnight and if the building is found to be unauthorized and illegal, take suitable action in accordance with law after issuing notice. Thereafter, the 2nd respondent issued Locking & Sealing and Demolition Notice dated 31.07.2017 to the petitioner under Sections 56 & 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971, as amended by Act 61 of 2008, calling upon the petitioner to restore the building to its condition before the said construction took place, within 30 days from the date of receipt of that notice, failing which action will be taken under Sections 56(1), 56(2-A) & 57(4) of the Tamil Nadu Town and Country Planning Act, 1971, as amended by Act 61 of 2008.

2(b).The petitioner submitted her reply dated 24.08.2017, to the 2nd respondent, requesting the 2nd respondent to drop further action. The 2nd respondent, on 13.03.2018, issued De-occupation notice to the petitioner calling upon her to discontinue the occupied portions, keep them vacant and inform the de-occupation status within 3 days from the date of receipt of that notice, failing which the premises will be locked and sealed. In such circumstances, on 15.03.2018, the petitioner filed



Revision under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, before the 1st respondent, as against the notice dated 13.03.2018. Since, no order has been passed on the said revision, the petitioner has come out with the present Writ Petition.

3.The learned counsel appearing for the petitioner submitted that the building has been constructed by the petitioner in the year 1995 and there is no deviation from the approved plan. The 2nd respondent without considering the petitioner's reply dated 24.08.2017, issued De-occupation notice dated 13.03.2018 and prayed for allowing the Writ Petition.

4.Ms.R.L.Karthika, learned Government Advocate appearing for the 1st respondent submitted that the petitioner has constructed the building without obtaining any permission and building is unauthorised one. In view of the same, notice was issued to lock and seal the building. The petitioner's revision dated 15.03.2018, 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 and prayed for dismissal of the Writ Petition.



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5.Heard the learned counsel appearing for the petitioner, learned Government Advocate appearing for the 1st respondent and the learned Standing Counsel appearing for the 2nd respondent and perused the entire materials on record.

6.Considering the above submissions made by the learned counsel appearing for the parties and the revision filed by the petitioner is pending from the year 2018, the 1st respondent is directed to dispose of the revision dated 15.03.2018 filed by the petitioner, after giving opportunity to the petitioner as expeditiously as possible, in any event, within three months from the date of receipt of a copy of this order, if not already disposed. Till such time, the respondents 1 & 2 are restrained from taking any coercive steps against the petitioner.

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

(V.M.V., J) (V.L.N., J)
29.03.2023

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



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To

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