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W.P.No.6816 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

and

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.No.6816 of 2023

and

W.M.P.No.6909 of 2023

S.Stella

.. Petitioner

Vs.

- 1.The Principal Secretary to Government,
Housing and Urban Development Department,
Secretariat, Fort St.George,
Chennai – 600 009.
- 2.M/s.Chennai Metropolitan Development Authority,
Rep. by its Member Secretary,
“Thalamuthu Natarajan Building”,
No.1, Gandhi Irwin Road,
Egmore, Chennai – 600 008.
- 3.The Commissioner,
Greater Chennai Corporation,
Rippon Building, Chennai – 600 003.
- 4.The Assistant Commissioner,
Division – 187, Unit – 42, Zone – XIV,
No.6/64, Puzhuthivakkam Main Road,
Chennai – 600 091.



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5.The Executive Engineer,
Division – 187, Unit – 42, Zone – XIV,
No.6/64, Puzhuthivakkam Main Road,
Chennai – 600 091.

6.The Assistant Executive Engineer,
Division – 187, Unit – 42, Zone – XIV,
No.6/64, Puzhuthivakkam Main Road,
Chennai – 600 091.

7.The Assistant Engineer,
Division – 187, Unit – 42, Zone – XIV,
No.6/64, Puzhuthivakkam Main Road,
Chennai – 600 091.

8.The Commissioner,
St. Thomas Mount Panchayat Union,
Chittlapakkam,
Chennai – 600 064.

9.V.Rajkumar

10.Gayathri Manoharan

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records available with the respondents 5 to 7 vide Letter No.14/00104/2023 and declare the de-occupation notice dated 20.02.2023 and quash the same as illegal, arbitrary and nonest-in-law pertaining to petition property No.1/67, 2nd Cross, Easwaran Kovil Street, Madipakkam, Chennai – 600 091.

For Petitioner

: Mr.T.Ramachandran



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For R1 : Mr.P.Gurunathan
Additional Government Pleader

For R2 : Mr.R.Sivakumar

For R3 : Mr.D.B.R.Prabhu
Standing Counsel

For R8 : Mr.J.C.Durairaj
Additional Government Pleader

ORDER

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

The petitioner has come out with the present Writ Petition to quash the de-occupation notice of the respondents 5 to 7 dated 20.02.2023, bearing Letter No.14/00104/2023, pertaining to petition property at No.1/67, 2nd Cross, Easwaran Kovil Street, Madipakkam, Chennai – 600 091.

2.By consent of learned counsel appearing for the petitioner, Mr.P.Gurunathan, learned Additional Government Pleader, who takes notice for 1st respondent, Mr.R.Sivakumar, learned counsel who takes notice for 2nd respondent, Mr.D.B.R.Prabhu, learned Standing Counsel, who takes notice for 3rd respondent and Mr.J.C.Durairaj, learned Additional Government Pleader, who takes notice for 8th respondent, this



Writ Petition is taken up for final disposal at the admission stage itself.

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3.Heard the learned counsel appearing for the parties and perused the entire materials on record.

4.According to petitioner, she has purchased the property measuring 500 sq.ft in the ground floor and 300 sq.ft in the first floor along with superstructure surrounded by compound wall, toilet, open space and pathway from the father of the 9th respondent. The vendor of the petitioner has obtained building plan for construction in Dis.No.5831 of 1983, dated 22.07.1983 and put up construction. After purchase by the petitioner, she did not put up any construction. The 9th respondent and others have created forged documents and claimed title to the suit property. Hence, the petitioner filed O.S.Nos.369 of 2021 and 24 of 2022 on the file of the District Munsif Court, Alandur. While so, on the complaint given by the third parties, the respondents 5 to 7 issued notices. The petitioner filed Revision before the 1st respondent, who set aside the order and directed the respondents 5 to 7 to pass fresh orders after considering the documents filed by the petitioner. The respondents 5 to 7 inspected the property of the petitioner on 18.11.2022 along with



Police and due to influence by third parties, issued impugned notice dated 20.02.2023. Hence, the petitioner has come out with the present Writ Petition.

5.From the above materials, it is seen that it is the case of the petitioner that she has purchased the property along with superstructure and the vendor of the petitioner after obtaining building plan, put up superstructure. The respondents 5 to 7 after inspection of the property, issued notice under Sections 56 (2-A) & 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971, as amended by Act 61 of 2008. The petitioner has alternate effective remedy of revision under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, to the 1st respondent. The petitioner has not given any reason for not availing the said remedy.

6.Considering the above materials, the petitioner is granted three weeks time to file revision before the 1st respondent. If any such revision is filed, the 1st respondent is directed to dispose of the revision, after giving opportunity to the petitioner and dispose of the same, as expeditiously as possible, in any event, within a period of four months



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from the date of receipt of a copy of this order. Till such time, the respondents 5 to 7 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)
09.03.2023

krk

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

To

1. The Principal Secretary to Government,
Housing and Urban Development Department,
Secretariat, Fort St. George,
Chennai – 600 009.

2. M/s. Chennai Metropolitan Development Authority,
Rep. by its Member Secretary,
“Thalamuthu Natarajan Building”,
No.1, Gandhi Irwin Road,
Egmore, Chennai – 600 008.

3. The Commissioner,

<https://www.mhc.tn.gov.in/judis>



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Greater Chennai Corporation,
Rippon Building, Chennai – 600 003.

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4.The Assistant Commissioner,
Division – 187, Unit – 42, Zone – XIV,
No.6/64, Puzhuthivakkam Main Road,
Chennai – 600 091.

5.The Executive Engineer,
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V.M.VELUMANI, J.



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