



WEB COPY



W.P.No.7859 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

and

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

Writ Petition No.7859 of 2023
and W.M.P.Nos.8110 & 8111 of 2023

Anju Devi

.. Petitioner

Vs.

1. The Member Secretary
Chennai Metropolitan Development Authority
Egmore, Chennai-600 008.

2.The Commissioner
Greater Chennai Corporation
Chennai-600 003.

3. The Executive Engineer
Zone-4
Greater Chennai Corporation
Chennai-600 021.

4. The Assistant Executive Engineer
Unit-II, Zone 4
Greater Chennai Corporation
Chennai-600 021.

5. The Assistant Engineer
Greater Chennai Corporation
Division – 45, Chennai-600 030.



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6. The Government of India
Represented by Secretary to Government
Housing and Urban Development Department
Fort St. George, Secretariat
Chennai-600 009.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the respondents 3 to 5 de-occupation notice under Section 56, sub-section 2(A) and 57 read with Section 85 of the Town and Country Planning Act, 1971 as amended by Act 61 of 2008 in Letter No.04/0048/2022 dated 22.09.2022 and quash the same and to remove the notice under Sections 56, 57(2) of the Town and Country Planning Act, 1971 from the premises in S.No.537/1, door No.52, Sundaram Main Road, Vysarpadi, Chennai-600 039.

For Petitioner	: Mr.M.Premkumar
For R1	: Mr. R.Sivakumar Standing Counsel for CMDA
For R2 to R5	: Mr. E.C.Ramesh Standing Counsel
For R6	: Mr.A.Selvendran Special Government Pleader

ORDER

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

The petitioner has come out with the present Writ Petition challenging the de-occupation notice issued by the respondents 3 to 5



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dated 22.09.2022 and to remove the notice from the premises in S.No.537/1, door No.52, Sundaram Main Road, Vysarpadi, Chennai-600 039.

2. By consent of both the learned counsel appearing for the petitioner as well as Mr.R.Sivakumar, learned Standing Counsel, who takes notice for the 1st respondent, Mr.E.C.Ramesh, learned Standing Counsel, who takes notice for the respondents 2 to 5 and Mr.A.Selvendran, learned Special Government Pleader, who takes notice for the 6th 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 Standing Counsel appearing for the 1st respondent & respondents 2 to 5 and the learned Special Government Pleader appearing for the 6th respondent and perused the entire materials on record.

4. According to the petitioner, she is the owner of the property to the extent of 3850 sq.ft. comprising in S.No.537/1, No.52, Sundaram



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Main Road, Vysarpadi, Chennai-600 039, from one Venkatesh and Jawahar Pandian. While so, one N.Gratel Nirmala, who was residing with her family in the said property claiming to be owner of the property filed Civil suits against the vendors of the petitioner and also filed Writ Petition alleging that building has been constructed in the property without obtaining plan approval. When the Writ Petition was taken up for hearing, the respondents therein represented that there was only a shed attached to the property and no construction activities were taking place. Hence, this Court disposed the said Writ Petition on 02.02.2021 with a direction to dispose of the representation of the petitioner after giving proper notice to the private respondents.

5. Subsequently, the vendor of the petitioner put up asbestos sheet in the property. The 4th respondent issued stop work notice dated 17.08.2021 and it was followed with lock & seal notice dated 13.12.2021. Challenging the same, the petitioner has filed revision under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 before the 6th respondent. The said revision has been disposed of by the 6th respondent directing the petitioner to obtain necessary planning permission as per the Rules. Due to delay in changing the patta in her



name, the petitioner could not apply for planning permission within the stipulated time and submitted her application before the 2nd respondent on 20.12.2022. Pending application, the respondents 3 to 5 had issued de-occupation notice under Section 56 Sub-Section 2(A) and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 dated 22.09.2022 and affixed the notice on the premises of the petitioner. Therefore, the petitioner has come out with the present Writ Petition for the above stated relief.

6. The petitioner is challenging the notice issued by the respondents 3 to 5 under Section 56(2)A of the Tamil Nadu Town and Country Planning Act, 1971, which is an appealable order. The petitioner without availing effective alternative remedy has approached this Court by way of Writ Petition. The petitioner has not given any reason for not availing the said remedy. It is open to the petitioner to file revision before the 6th respondent within a period of two weeks from the date of receipt of a copy of this order. If any such revision is filed, the 6th respondent is directed to dispose of the revision filed by the petitioner within a period of three months thereafter after giving opportunity to the petitioner.



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7. With the above directions, the Writ Petition is disposed of. No

costs. Consequently, connected Miscellaneous Petitions are closed.

(V.M.V., J) (V.L.N., J)
21.03.2023

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

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To

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**V.M.VELUMANI,J.
and
V.LAKSHMINARAYANAN,J.**

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