



W.P.No.6932 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.03.2023

CORAM

THE HONOURABLE Ms. JUSTICE V.M.VELUMANI

AND

THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

W.P.No.6932 of 2023
and W.M.P.Nos.7032 & 7033 of 2023

A.Latha

.. Petitioner

Vs.

1.The Commissioner
Greater Chennai Corporation
Rippon Building
Chennai-600 003.

2.The Executive Engineer
Zone-VI
Greater Chennai Corporation
Pattalam, Chennai-600 023.

3. The Assistant Engineer
Division No.67, Unit No.15
Zone-VI
Greater Chennai Corporation
Pattalam, Chennai-600 023.



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

**(R4 suo motu impleaded vide order of
this Court dated 06.03.2023 made in
W.P.No.6932 of 2023)**

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorari calling for the records pertaining to the
impugned notice bearing No.Z.O.VI.C.No.1440/2023 dated 18.02.2023
issued by 2nd respondent and quash the same as the same is arbitrary, illegal
and premature.

For Petitioner	:	Mr.S.R.Rajagopal Senior Counsel for Mr.M.Senthilkumar
For R1 to R3	:	Mr.D.B.R.Prabhu Standing Counsel
For R4 newly impleaded	:	Mr.C.N.Vinobha Standing Counsel for CMDA



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ORDER

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

The petitioner has come out with the present Writ Petition challenging the impugned notice dated 18.02.2023 issued by the 2nd respondent.

2. By consent of Mr.S.R.Rajagopal, the learned Senior Counsel appearing for Mr.M.Senthilkumar, learned counsel on record for the petitioner as well as Mr.D.B.R.Prabhu, learned Standing Counsel, who takes notice for the respondents 1 to 3, the Writ Petition is taken up for final disposal at the stage of admission itself.

3. The petitioner is owner of the premises bearing Door No.1, Kattapomman street, Venkateshwara Nagar, Peravallur, Chennai-600 082. She has constructed the building and completed in the year 2012. The petitioner has put up construction in deviation from the approved plan. In view of the same, the respondents initiated action under Section 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971



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(hereinafter referred to as 'the Act 1971') by issuing lock & seal and demolition notice dated 21.01.2019 and another de-occupation notice dated 19.02.2019. Challenging the said notice, the petitioner filed revision under Section 80(A) of the Act 1971 along with a petition for stay of the de-occupation notice under Section 80(A)(3) of the Act 1971 and review petition under Section 81 of the Act 1971 and the same were rejected by the 1st respondent by an order dated 24.10.2019. The review filed by the petitioner was also rejected on 21.11.2020. The petitioner filed W.P.No.6029 of 2022 permitting her to submit the planning permission to the respondent Corporation. This Court by an order dated 16.03.2022 taking into account that the petitioner has exhausted the remedy available to her under Sections 80(A), 80(A)(3) & 81 of the Act 1971, gave liberty to her to file an application under Section 49 of the Act 1971 for revised plan. According to the petitioner, she filed revised plan through Online. The petitioner filed an appeal under Section 79 of the Act 1971 before the Secretary to the Government even though she has not received any order rejecting her application for revised plan. The said appeal was also dismissed.



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4. Learned Senior Counsel appearing for the petitioner submitted that the petitioner has given application for regularisation under Section 113C of the Act 1971 and the said application is pending. The impugned notice issued by the respondents is invalid, in view of the pendency of the application filed by the petitioner under Section 113C of the Act 1971.

5. In view of the above, this Court suo motu impleads “*The Member Secretary, Chennai Metropolitan Development Authority, No.1, Thalamuthu Natarajan Maaligai, Gandhi Irwin Road, Egmore, Chennai 600 008*” as 4th respondent in this Writ Petition. Mr.C.N.Vinobha, learned Standing Counsel takes notice for the newly impleaded 4th respondent/CMDA.

6. Heard the learned Senior Counsel appearing for the petitioner as well as the learned Standing Counsel appearing for the respondents 1 to 3 and perused the materials on record.

7. The petitioner has admitted that her building is constructed in deviation from the approved plan and there is some deviation in the



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construction. It is seen from the records that all the appeal and revision filed by the petitioner were rejected. Now the application filed by the petitioner under Section 113C of the Act 1971 is pending before the Government. In W.P.No.23889 of 2017 etc., batch, the Hon'ble First Bench of this Court has directed the planning authorities to receive the applications filed under Section 113C of the Act 1971, process it, but not to pass final orders, pending disposal of the constitutional validity of G.O.(Ms).No.110, Housing and Urban Development [UD4(3)] Department, dated 22.06.2017. In view of the Writ Petitions challenging the G.O.(Ms).No.110, Housing and Urban Development [UD4(3)] Department, dated 22.06.2017 are pending before the Hon'ble First Bench of this Court, the 4th respondent/CMDA is directed to process the application filed by the petitioner and not to pass final order till the disposal of the Writ Petitions pending before the Hon'ble First Bench of this Court. Till such time, the respondents are restrained from taking any coercive action against the petitioner's building.



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8. 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.)
06.03.2023

Index : Yes/No

Neutral citation : Yes/No

Note : Registry is directed to carry out necessary amendment in the cause title.

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