



WEB COPY

W.P.No.7853 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

and

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.No.7853 of 2023

and

W.M.P.No.8106 of 2023

D.Madhusudhanan

.. Petitioner

Vs.

1.Government of Tamil Nadu,
Rep. by its Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai – 600 009.

2.The Principal Secretary / Commissioner,
Greater Chennai Corporation,
Chennai – 600 003.

3.The Executive Engineer,
Zone – 13, Division 179,
Greater Chennai Corporation,
Adyar, Chennai – 600 020.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, forbearing the 3rd Respondent its Officers, employees or anybody claiming under or through it from proceeding further in pursuance of the impugned notice



in Letter No.13/0003/2021, dated 29.07.2022 and seeking the petitioner's building should not be demolished or removed or interfered until the disposal of petitioner's special revision application filed under Section 80(A) of the Town and Country Planning Act, 1971 before the 1st Respondent.

For Petitioner	: Mr.K.Sathishkumar
For R1	: Mr.A.Selvendran Special Government Pleader
For RR 2 & 3	: Mr.D.B.R.Prabhu Standing Counsel

ORDER

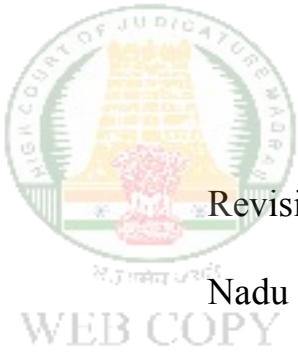
(Order of the Court was delivered by V.M.VELUMANI,J.)

The petitioner has come out with the present Writ Petition forbearing the 3rd respondent, its officers, employees or anybody claiming under or through it from proceeding further in pursuance of the impugned notice in Letter No.13/0003/2021, dated 29.07.2022 and seeking his building should not be demolished or removed or interfered until the disposal of his special revision application filed under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 before the 1st respondent.



2.By consent of the learned counsel appearing for the petitioner, Mr.A.Selvendran, learned Special Government Pleader, who takes notice for the 1st respondent and Mr.D.B.R.Prabhu, learned Standing Counsel, who takes notice for respondents 2 & 3, this Writ Petition is taken up for final disposal at the admission stage itself.

3.According to petitioner, his mother P.Lakshmi is the owner of the property bearing Plot No.55, VGP Selva Nagar measuring to an extent of 2800 sq.ft comprised in Survey No.317/1A1 part as per patta old Survey No.317/1A1A1A1A part, T.S.No.44/0, Block No.195, situated at No.137, Velacherry Village, Saidapet Taluk, Chennai District and thereafter she settled the said property in favour of the petitioner. The petitioner applied for building approval and his plan was approved vide Plan No.DN-179/009/2022. While so, the 3rd respondent issued Lock and Seal and Demolition notice dated 29.07.2022, vide letter No.13/0003/2021, directing to restore the building in compliance with the approved plan within 30 days, failing which action will be taken under Sub section (4) of Section 57 of the Tamil Nadu Town and Country Planning Act, 1971, as amended by Act 61 of 2008, to lock and seal the premises and to demolish the building. In such circumstances, the petitioner filed



Revision Petition dated 23.08.2022, under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, before the 1st respondent for regularisation of the deviation. Thereafter, the 1st respondent called upon the petitioner to appear before the office of the 3rd respondent on 01.02.2023 along with connected documents and the petitioner submitted all the documents before the 2nd respondent. Without conducting any inspection, the 3rd respondent issued notice dated 12.05.2022, under Section 57 of the Tamil Nadu Town and Country Planning Act, 1971 and the said notice was not served on the petitioner. Since, no order has been passed on the said revision petition, the petitioner has come out with the present Writ Petition.

4.The learned counsel appearing for the petitioner submitted that there are no deviations from the approved plan as pointed out by the 3rd respondent and the construction put up by the petitioner is as per the building plan approval. The respondents without inspecting the property in front of the petitioner and also without conducting any enquiry, arbitrarily issued lock and seal and demolition notice to the petitioner and prayed for allowing the Writ Petition.



5.Mr.A.Selvendran, learned Special Government Pleader appearing for the 1st respondent submitted that the petitioner has constructed the building without obtaining any permission and building is unauthorised construction. In view of the same, notice was issued to lock and seal and demolish the building. The petitioner's revision dated 23.08.2022, 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.

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

7.Considering the above submissions made by the learned counsel appearing for the parties and that the revision filed by the petitioner is pending from 23.08.2022, the 1st respondent is directed to dispose of the revision filed by the petitioner, after giving opportunity to the petitioner as expeditiously as possible, in any event, within four months from the date of receipt of a copy of this order. Till such time, the respondents 2 & 3 are restrained from taking any coercive steps against the petitioner.



8.With the above directions, the Writ Petition is disposed of.

Consequently, the connected Miscellaneous Petition is closed. No costs.

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(V.M.V., J) (V.L.N., J)
15.03.2023

krk

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

To

- 1.Government of Tamil Nadu,
Rep. by its Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai – 600 009.
- 2.The Principal Secretary / Commissioner,
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Chennai – 600 003.
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V.M.VELUMANI, J.



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