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W.P.No.11086 of 2023



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 12.04.2023

CORAM:

**THE HONOURABLE MS.JUSTICE V.M.VELUMANI**

**and**

**THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

**W.P.No.11086 of 2023**

**and**

**W.M.P.No.10954 of 2023**

S.Kalyani Rani

.. Petitioner

**Vs.**

1.The Commissioner,  
Corporation of Chennai,  
Ripon Buildings, Chennai – 600 003.

2.The Executive Engineer – IX,  
Greater Chennai Corporation,  
Zonal Office IX,  
No.8, 4<sup>th</sup> cross street, Lake Area,  
Nungambakkam, Chennai – 600 034.

3.The Assistant Executive Engineer Unit – 24,  
Greater Chennai Corporation,  
Zonal Office IX,  
No.8, 4<sup>th</sup> cross street, Lake Area,  
Nungambakkam, Chennai – 600 034.

4.The Principal Secretary,  
Housing and Urban Development Department,  
Secretariat, Chennai – 600 009.

.. Respondents

(R4 suo motu impleaded as per order  
of this Court dated 12.04.2023)



**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, forbearing the respondents from initiating any action in pursuance of the De-occupation notice issued by the respondents 2 and 3 U/s. Section 56(2A) and 57 read with Section 85 of the Tamilnadu Town and Country Planning Act, 1971 in Notice No.Z.IX.TPENF/Dn-110/001/2023 dated 23.03.2023 for the property situated at Old No.21/1, New No.20/1, Palat Madhavan Road, Mahalingapuram, Nungambakkam, Chennai – 600 034 pending disposal of the statutory Appeal made under the special provision U/s. 80A of the Tamilnadu Town and Country Planning Act, 1971.

|                |                                                 |
|----------------|-------------------------------------------------|
| For Petitioner | : Mr.S.Thiruvengadam                            |
| For RR 1 to 3  | : Mr.D.B.R.Prabhu<br>Standing Counsel           |
| For R4         | : Mr.A.Selvendran<br>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 forbearing the respondents from initiating any action in pursuance of the De-occupation notice issued by the respondents 2 and 3 under Sections 56(2A) and 57 read with Section 85 of the Tamilnadu Town and Country Planning Act, 1971, in Notice No.Z.IX.TPENF/Dn-110/001/2023 dated 23.03.2023, for the property situated at Old No.21/1, New No.20/1, Palat



Madhavan Road, Mahalingapuram, Nungambakkam, Chennai – 600 034

pending disposal of the statutory Appeal made under the special provision under Section 80-A of the Tamilnadu Town and Country Planning Act, 1971.

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

3.According to petitioner, she is the absolute owner of the property situate at Old No.21/1, New No.20/1, Palat Madhavan Road, Mahalingapuram, Nungambakkam, Chennai – 600 034. She put up construction of three floors after obtaining building permission from the Greater Chennai Corporation. The construction put up by the petitioner is as per the approved plan and some minimal changes were made by converting the balconies. Based on the complaint given by the petitioner's brother-in-law, the respondents 2 & 3 issued notice dated 09.01.2023 to the petitioner under Sections 56 & 57 of the Tamilnadu Town and Country Planning Act, 1971, to produce the approved plan and to stop the work. The petitioner sent reply dated 24.01.2023, to the 2<sup>nd</sup>



respondent and also produced the planning permission. While so, the respondents 2 & 3 and the Assistant Engineer after inspecting the petitioner's property, issued Lock and Seal notice dated 17.02.2023 to the petitioner under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971, as amended by Act 61 of 2008. Therefore, the petitioner filed revision under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, before the 1<sup>st</sup> respondent on 14.03.2023. Pending revision, the respondents 2 & 3 issued De-occupation notice dated 23.03.2023 to the petitioner. Since, no order has been passed on the revision dated 14.03.2023, the petitioner has come out with the present Writ Petition.

4. In view of the revision filed by the petitioner before 1<sup>st</sup> respondent is pending from 14.03.2023, this Court suo motu impleads '*The Principal Secretary, Housing and Urban Development Department, Secretariat, Chennai – 600 009*' as 4<sup>th</sup> respondent in this Writ Petition and Mr.A.Selvendran, learned Special Government Pleader takes notice for the newly impleaded 4<sup>th</sup> respondent.

5. The learned counsel appearing for the petitioner submitted that the construction put up by the petitioner is as per the approved plan and



there are only minimal changes in the said construction. As per the Combined Building Development Rules, there is provision for premium FSI and the petitioner is willing to pay necessary charges for the minimal additional area constructed and prayed for passing suitable orders.

6.Mr.A.Selvendran, learned Special Government Pleader appearing for the newly impleaded 4<sup>th</sup> respondent submitted that the petitioner's revision dated 14.03.2023, 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.

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

8.Considering the above submissions made by the learned counsel appearing for the parties and the fact that the revision filed by the petitioner is pending, the 4<sup>th</sup> respondent is directed to dispose of the revision dated 14.03.2023 filed by the petitioner, after giving opportunity to the petitioner as expeditiously as possible, in any event, within six months from the date of receipt of a copy of this order. Till such time, the



respondents 1 to 3 are restrained from taking any coercive steps against the petitioner.

9. 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)  
12.04.2023

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

**NOTE:** Registry is directed to carry out necessary amendment in the main Writ Petition.

To

1. The Commissioner,  
Corporation of Chennai,  
Ripon Buildings, Chennai – 600 003.
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Greater Chennai Corporation,  
Zonal Office IX,  
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**V.M.VELUMANI, J.**  
**and**

**V.LAKSHMINARAYANAN, J.**

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4.The Principal Secretary,  
Housing and Urban Development Department,  
Secretariat, Chennai – 600 009.

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