



W.P.No.14634 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.03.2023

CORAM

THE HONOURABLE Ms. JUSTICE V.M.VELUMANI

AND

THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

W.P.No.14634 of 2021

AND

W.M.P.No.15519 of 2021

1.George Simon
2.V.Palaniappan
3.S.Vasu
4.Sandeep U.G.
5.G.Shankaranarayanan
6.Balaji Nagarajan
7.N.Bhuvaneshwari

.. Petitioners

Vs.

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

2.Greater Chennai Corporation
Rep. by its Commissioner
Rippon Building
Chennai 600 003



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3. Greater Chennai Corporation
Rep. by its Executive Engineer
Zone-10, Division 129, Unit 29
No.117, NSK Salai, Kodambakkam
Chennai 600 024

4. Chennai Metropolitan Development Authority
Rep. by its Member Secretary
No.1, Gandhi Irwyn Road
Egmore, Chennai-8

5. R. Lawrence
(R5 impleaded *vide* order dt.15.7.22)

6. T. V. E. Sathish
(R6 impleaded *vide* order dt.24.1.23)

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the 1st respondent in letter No.18309/UD-VI(2)/2020-2, dated 02.07.2021 relating to rejection of the petitioners special revision petition dated 22.12.2020 filed under Section 80-A of the Town and Country Planning Act pertaining to the building at plot No.10 & 11/1, Rajendra Colony, Arunachalam Road, Saligramam, Chennai 600 093 and quash the same and consequently forbearing the respondents 2 and 3 from in anyway interfering with the petitioners aforesaid building particularly by way of locking and sealing and demolition, pending final determination of petitioners application for regularisation dated 11.02.2021 by the 4th respondent filed under Section 113-C of the Town and Country Planning Act.



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For Petitioner : Mr.D.S.Rajasekaran
For R1 : Mrs.R.L.Karthika
For R2 and R3 : Mr.G.T.Subramaniam
Standing Counsel
For R4 : Mr.Shivakumar
Standing Counsel
For R5 : Mrs.Rita Chandrasekar,
for M/s.Aiyar & Dolia
For R6 : Mr.L.Chandrakumar

ORDER

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

The petitioner has come out with the present writ petition to quash the impugned order passed by the 1st respondent in letter No.18309/UD-VI(2)/2020-2 dated 02.07.2021, rejecting the revision petitions filed by the petitioners under Section 80-A of the Tamil Nadu Town and Country Planning Act and for a direction not to interfere with the petitioners building by way of locking and sealing and demolition.

2. Heard the learned counsels appearing for the parties and perused the entire materials on record.



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3. Learned counsel appearing for the petitioners submitted that the petitioners are the owners of the respective flats in the building situated at plot Nos.10 & 11/1, Rajendra Colony, Arunachalam Road, Saligramam, Chennai 600 093. The 6th respondent is the promoter. The 5th respondent is also purchaser of one of the flats and is residing at F2 in the said building. After purchase of the said flat by the 5th respondent, he found that there is a deviation from the approved plan, as the 6th respondent has constructed the building in the open car parking area and the 6th respondent failed to provide car park area to the 5th respondent. Hence, the 5th respondent gave a complaint to the respondents 2 to 4. The respondents 2 to 4 inspected the property and found that there is a deviation and unauthorised construction. The respondents 2 and 3 issued stop work notice, locking and sealing and demolition notice. Against the said notices, the petitioners filed two revision petitions under Section 80-A of the Act before the 1st respondent and the same were rejected by the 1st respondent on 02.07.2021. Challenging the said rejection order, the petitioner has come out with the present writ petition.



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4. Learned counsel for the petitioners submitted that flats are constructed in the year 2001 and the petitioners have filed application for regularisation. Learned counsels appearing for the parties submitted that the application filed by the 6th respondent under Section 113-C of the Act was rejected, for want of hard copies of the documents issued by the 4th respondent. Learned counsel for the parties further submitted that petitioners and respondents 5 and 6 will re-submit the application along with all the documents, within three weeks from the date of receipt of a copy of this order.

5. The Hon'ble First Bench of this Court has directed the authority to receive the application for regularisation, with regard to properties constructed before 01.07.2007, but not to pass orders on the application. In the present case, after receiving the application, 4th respondent has rejected the application for want of hard copies of documents. In view of the directions of the Hon'ble First Bench of this Court, in W.P.No.23889 of 2017 etc. batch, that the CMDA can receive the application for regularisation filed under Section 113-C of the Act and process the same,



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but, not to pass final orders till the disposal of the said batch, the petitioners are directed to re-submit the application along with the respondents 5 and 6, enclosing all the documents required by the 4th respondent. If such application is re-submitted, the 4th respondent is directed to receive the same. If any such application is submitted, the 4th respondent is directed to process the same and not to pass any final orders, till disposal of the W.P.No.23889 of 2017 etc. batch. Further, the respondents 2 and 3 are restrained from taking any coercive steps on the petitioners, till the final orders in the regularisation application is passed.

6. Learned counsel appearing for the 5th respondent submitted that on the complaint given by the 5th respondent, the respondents 2 and 3 initiated proceedings against the builder as well as the petitioners. She further submitted that the construction in the open car parking area cannot be regularised. In view of the above, the 4th respondent is directed to give opportunity to the 5th respondent, while considering the regularisation application. It is open to the 5th respondent to participate in the hearing and file objections, if any.



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With the above directions, the writ petition is disposed of. No costs.

Connected miscellaneous petition is closed.

(V.M.V.,J.) (V.L.N.,J.)
03.03.2023

Index : Yes/No
Neutral Citation : Yes/No
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