



WEB COPY



W.P.No.16050 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mrs.JUSTICE N.MALA

W.P.No.16050 of 2023

N.Sugandhi Prasad
W/o Baba Prasad

.... Petitioner

VS

1. The Member Secretary,
Chennai metropolitan Development mAuthority,
No.1, Gandhi Irwin Building,
Egmore,
Chennai - 600 008.

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

3. The Executive Engineer,
Zone-V, Greater Chennai Corporation,
No.105, Basin Bridge Road,
Royapuram,
Chennai - 600 079

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India

to issue a Writ of Mandamus to direct the 3rd respondent not to proceed in



W.P.No.16050 of 2023

WEB COPY

any manner or take any coercive steps, pursuant to the de-occupation notice vide letter No.05/06729/1/2022 dated 04.08.2022 under Section 56 & 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 with respect to the premises situated at Door No.2(3) Bala Subburaya Chetty Lane, Sowcarpet, Chennai - 600 001, pending determination of the application for regularisation filed by the petitioner under section 113-C of the tamil Nadu town and Country Planning act before the 1st respondent vide receipt No.CMDA/Reg-113C/2599/2022 dated 11.04.2022

For Petitioner : Mr.D.S.Rajasekaran
for Mr.K.Sivasubramanian

For Respondents : Mr.R.Sivakumar,
Standing Counsel for CMDA for R1
Mr.D.B.R.Prabhu,
Standing Counsel for
Chennai Corporation/R2 & R3

ORDER

(Order of the Court was made by J.NISHA BANU, J.,)

This Writ Petition has been filed praying to issue a Writ of Mandamus to direct the 3rd respondent not to proceed in any manner or take any coercive steps, pursuant to the de-occupation notice vide letter No.05/06729/1/2022 dated 04.08.2022 under Section 56 & 57 read with Section 85 of the Tamil



W.P.No.16050 of 2023

Nadu Town and Country Planning Act, 1971 with respect to the premises situated at Door No.2(3) Bala Subburaya Chetty Lane, Sowcarpet, Chennai - 600 001, pending determination of the application for regularisation filed by the petitioner under section 113-C of the Tamil Nadu Town and Country Planning Act before the 1st respondent vide receipt No.CMDA/Reg-113C/2599/2022 dated 11.04.2022

2. The case of the petitioner is that she is the absolute owner of the property situated at Door No.2(3), Bala Subburaya Chetty Lane, Sowcarpet, Chennai j- 600 001. The petitioner had put up a commercial building consisting of ground plus two floors which was constructed after obtaining planning permission approval dated 18.05.2006 from the 1st respondent. Whiles, the 3rd respondent issued notice dated 17.02.2022 calling for approved plan with respect to the above building and further, the 3rd respondent issued lock and seal notice dated 25.03.2023. The petitioner made an application for regularisation of the building before the 1st respondent under section 113-C of the Tamil Nadu Town and Country Planning Act, 1971 on 11.04.2022 and intimated the same to the 3rd respondent vide letter dated 27.04.2022. The 3rd respondent, on expiry of Lock and Seal notice



W.P.No.16050 of 2023

period, issued de-occupation notice dated 04.08.2022 for locking and sealing the premises without considering the application filed by the petitioner for regularisation before the 1st respondent. Hence, the present writ petition with the aforesaid relief.

3. Heard the learned counsel on either side and perused the materials available on record.

4.It is submitted that the petitioner has filed an application for regularisation u/s.113-C of the Tamil Nadu Town and Country Planning Act, before the Chennai Metropolitan Development Authority / 1st respondent on 11.04.2022. In the meantime, the Government Order permitting regularisation is set aside by this Court and now, the matter is subjudice before the Hon'ble Supreme Court.

5.The learned Standing Counsel appearing for the 1st respondent relied on the judgment of this Court dated **27.07.2023 in W.P.No.9725 of 2017** and prayed this Court to take a similar view in this matter.



W.P.No.16050 of 2023

WEB COPY

6.The Hon'ble First Bench of this Court in *W.P.No.9725 of 2017 [K.Perumal Vs. The State of Tamil Nadu, Rep.by the Secretary to Government and others]*, by order dated 27.07.2023, while dealing with the writ petitions seeking directions to enforce the locking and sealing and demolition notice, held as under:-

“3.We have disposed of other writ petitions, with an observation that, “if subsequently after the orders are passed by the Apex Court and the petitioners have any remedy open, they are entitled to agitate the same afresh. In that event, all contentions are kept open”. We have observed that the parties may take steps pursuant to the judgment of the Apex Court.

4.In case, after the judgment of the Apex Court, if it is found that the fifth respondent is not entitled for regularisation, then the petitioner may agitate afresh.”

7.In view of the fact that the matter regarding regularization is seized of by the Hon'ble Supreme Court, the only remedy open to the petitioner is to await the orders of the Supreme Court. The petitioner is entitled to agitate the



W.P.No.16050 of 2023

WEB COPY

issue afresh after the orders are passed by the Hon'ble Supreme Court, on the subject matter. Accordingly, the writ petition is disposed of. No costs. Consequently connected miscellaneous petition is closed.

(J.N.B., J.) (N.M., J.)
21.09.2023

vsi

Index : Yes / No

Internet : Yes / No

Neutral citation : Yes / No

To

1. The Member Secretary,
Chennai metropolitan Development mAuthority,
No.1, Gandhi Irwin Building,
Egmore,
Chennai - 600 008.
2. The Commissioner,
Greater Chenani Corporation,
Chennai - 600 003.
3. The Executive Engineer,
Zone-V, Greater Chennai Corporation,
No.105, Basin Bridge Road,
Royapuram,
Chennai - 600 079



WEB COPY



W.P.No.16050 of 2023

J. NISHA BANU, J.
and
N.MALA, J.

vsi

W.P.No.16050 of 2023

21.09.2023