



W.P.No.17037 of 2023

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P. DHANABAL

W.P.No.17037 of 2023

P. Ganesh
Petitioner

...

Vs.

- 1.State of Tamil Nadu
Represented by its
Secretary to Government,
Housing and Urban Development Department,
Secretariat,
Chennai-600 009.
- 2.The Commissioner,
Greater Corporation of Chennai,
Ribbon Buildings, Chennai-600 003.
- 3.The Executive Engineer,
Zone-11, Greater Chennai Corporation,
No.33, Arcot Road, Bhuvaneshwari Nagar,
Valarasarawakkam, Chennai-600 087.
- 4.The Assistant Executive Engineer,
Unit-32, Greater Chennai Corporation,
Poonamallee High Road, Maduravoyal,
Near Yerikkarai Bus Stop,
Chennai-95.



W.P.No.17037 of 2023

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5. The Assistant Engineer,
Division No.144, Greater Chennai Corporation,
Poonamallee High Road, Maduravoyal,
Near Yerikkarai Bus Stop,
Chennai-95

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Manadamus, forbearing the respondents 2 to 5 and their men, agents and subordinate from in any manner taking any coercive action, including locking and sealing the petitioner's house building bearing Plot No.218, (Western side) Sri Abirami Nagar 4th Street, comprised in Old Survey No.127/49, Patta No.8523 as per Patta Survey No.127/621 situated at Maduravoyal village, Ambattur Taluk, Thiruvallore District, measuring an extent of 1050 sq.ft. Of land, pursuant to the Locking & Sealing and Demolition Notice vide Letter No.11/00043/2022 dated 30.03.2022 issued by the third respondent, till the final disposal of the Revision Petition dated 20.09.2022, filed under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 (Act 35 of 1972) on the file of first respondent.

For Petitioner : Mr.K.Premkumar

For Respondents : Mr.D.B.R.Prabhu
Standing Counsel
for Corporation,
for respondents 2 to 5
Mr.A.Selvendran
Special Government Pleader
for first respondent



W.P.No.17037 of 2023

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ORDER

(Order of the Court was made by *D.KRISHNAKUMAR, J.*)

The writ petition has been filed seeking issuance of a Writ of Mandamus, forbearing the respondents 2 to 5 and their men, agents and subordinates from in any manner taking any coercive action, including locking and sealing of the petitioner's house building bearing Plot No.218, (Western side) Sri Abirami Nagar 4th Street, comprised in Old Survey No.127/49, Patta No.8523 as per Patta Survey No.127/621 situated at Maduravoyal village, Ambattur Taluk, Thiruvallore District, measuring an extent of 1050 sq.ft. of land, pursuant to the Locking & Sealing and Demolition Notice vide Letter No.11/00043/2022 dated 30.03.2022 issued by the third respondent, till the final disposal of the Revision Petition dated 20.09.2022, filed under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 (Act 35 of 1972) on the file of first respondent.

2. According to the writ petitioner, as per patta Survey No.127/621, petitioner is the owner of the plot bearing Plot No.218, (Western side), Sri Abirami Nagar, 4th Street, comprised in Old Survey No.127/49, Patta No.8523. He purchased the aforesaid property by way of sale deed dated 30.01.2019 registered as Doc.No.495/2019 at



W.P.No.17037 of 2023

S.R.O.Virugambakkam. After obtaining planning permission from the respondent Corporation, he had constructed the building consisting of stilt plus two floors in the year 2022. While so, the third respondent had issued a stop work notice dated 11.03.2022 under section 56(1) and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972 as amended by Act 61 of 2008), (for the sake of brevity, hereinafter referred to as 'the Act'), calling upon to furnish copy of the approved plan within 15 days. Since the petitioner had submitted all the original documents including the Original approved plan, to the bank, from where he had availed the housing loan, he could not submit copy of the approved plan immediately to the respondent. Subsequently, Lock and Seal and Demolition Notice dated 30.03.2022 under Section 57 read with Section 85 of the Act was issued. Therefore, he filed a revision petition dated 20.09.2022 under Section 80-A of the Act before the first respondent/Government. When the said revision petition is pending, the respondent Corporation has served notice dated 29.05.2023, stating that the premises will be sealed on 10.06.2023. Assailing the said order, the present writ petition has been filed seeking aforesaid prayer.



W.P.No.17037 of 2023

WEB COPY

3. Mr.Selvendran, learned Special Government Pleader, for the first respondent/Government, on instructions, submitted that the revision petition filed by the petitioner will be considered by the first respondent and appropriate orders will be passed, on its own merits and in accordance with law, within a time frame, as directed by this Court. He has further stated that the petitioner has a remedy of seeking an interim order under Section 80(A)(3) of the Act, before the Government.

4. It is also brought to the notice of this Court that the petitioner has submitted an interim stay application before the Government only on 05.06.2023, and hastily without awaiting for disposal of the said interim stay application, within a short span of time, has filed the present writ petition before this Court.

5. Considering the above said fact and submissions made on behalf of the parties, without expressing any opinion on merits, the first respondent is directed to consider the petitioner's revision petition dated 20.09.2022, and pass orders on its own merits and in accordance with law, after providing an opportunity to the petitioner,



W.P.No.17037 of 2023

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as expeditiously as possible, within a period of twelve weeks from the date of receipt of a copy of this order. In the meantime, the Government/first respondent is directed to consider the petitioner's stay application dated 05.06.2023, within a period of one week from the date of receipt of a copy of this order.

6. With the above direction, the writ petition stands disposed of. There will be no order as to costs. Consequently, W.M.P.No.16223 of 2023 is closed.

[D.K.K., J.] [P.D.B., J.]
08.06.2023

Index : Yes/No
Neutral Citation : Yes/No
mrn

Note: Issue order copy by 12.06.2023



W.P.No.17037 of 2023

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To

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State of Tamil Nadu
Housing and Urban Development Department,
Secretariat,
Chennai-600 009.
- 2.The Commissioner,
Greater Corporation of Chennai,
Ribbon Buildings, Chennai-600 003.
- 3.The Executive Engineer,
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W.P.No.17037 of 2023

D.KRISHNAKUMAR, J.
and
P. DHANABAL, J.

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W.P.No.17037 of 2023

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