



W.P.No.25538 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2023
CORAM

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

W.P.No.25538 of 2023
and
W.M.P.No. 24927 of 2023

1. Jayalakshmi,
W/o (Late) T.V.Murugesan,

2. M.Arasakumar,
S/o Late T.V.Murugesan

.... Petitioners

vs

1. The Additional Secretary/ Technical,
Housing and Urban Development Department,
Secretariat,
Chennai - 600 009.

2. The Additional Chief Secretary/ Commissioner,
Greater Chennai Corporation,
Park Town,
Chennai - 600 003.

3. The Executive Engineer, Zone - 03,
Greater Chennai Corporation,
No.1, Thattankulam Road, Madhavaram,
Chennai - 600 060.

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
to issue a Writ of Certiorari to direct the first respondent to call for the entire



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records relating to Letter No.13245/UD6(1)/2022-2, dated 23.05.2023 passed by the first respondent dismissing the revision petition filed by petitioners under Section 80-A of the Tamilnadu Town and Country Panning Act 1971 and quash the same.

For Petitioner : Mr.T.Sivaganasambandan

For Respondents : Mrs.R.L.Karthika
Government Advocate for R1
Mr.D.B.R.Prabu,
Standing Counsel for R2 & R3

ORDER

(Order of the Court was made by J.Nisha Banu,J.)

This Writ Petition has been filed challenging the order passed by the first respondent dated 23.05.2023, by which, the revision petition filed by the petitioners under section 80-A of the Tamilnadu Town and Country Planning Act, 1971, was dismissed.

2. The case of the petitioners is that the property in S.No.191/10, Surapattu Village, Madhavaram Taluk, Chennai District, measuring an extent of Ac. 37.5 cents, was purchased from one V.Srinivasan by T.V.Murugesan, who is the husband of the 1st petitioner and father of the 2nd petitioner, by way of registered sale deed in Document No.2100/1991 dated 23.09.1991 and patta was also issued in favour of T.V.Murugesan in Patta No.1212 on



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20.01.1996, but the Revenue Authority did not include the above said patta number in the Government records. Subsequently, by oral partition, the 2nd petitioner was allocated a small portion in the said property wherein he constructed a building in the year 1996. Though the petitioner's father submitted representation to the District Collector, Thiruvallur District, for issuance of patta, no action was taken on the representation. Subsequently, T.V.Murugesan, 2nd petitioner's father passed away. The 2nd petitioner did not do any construction work after 1996. In April 2021, he fixed marriage of his daughter and carried out painting work. However, alleging that the petitioner was constructing the building unauthorisedly, the 3rd respondent issued Stop Work Notice on 22.04.2022 and thereafter, issued locking & sealing notice on 25.05.2022. The petitioner submitted a detailed explanation on 06.07.2022 to the 3rd respondent. However, the 3rd respondent issued De-occupation notice on 08.07.2022, for which, the petitioner filed an appeal /representation on 21.07.2022. Since the same was not considered, the petitioner filed a writ petition in W.P.No.5395 of 2023 before this Court and this Court, by order dated 09.03.2023, directed the 1st respondent to dispose of the appeal/representation within three months along with a direction that till such time, the respondents 2 to 5/Corporation are restrained from taking



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any coercive steps against the petitioner. Thereafter, a revision petition was filed by the petitioners and the same was dismissed vide proceedings dated 23.05.2023. Hence, the present writ petition.

3. Heard the learned counsel for the petitioners, the learned Government Advocate appearing for the 1st respondent and the learned Standing Counsel appearing for the 2nd and 3rd respondents.

4. It is not in dispute that the petitioner has constructed a building consisting of ground floor and first floor without obtaining patta for the property. The ground floor building is used for commercial purpose and the first floor is under construction. As the said building was put up unauthorizedly, the Greater Chennai Corporation issued stop work notice on 22.04.2022 and then issued locking and sealing notice on 25.05.2022 and subsequently, issued de-occupation notice on 08.07.2022. A revision petition under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 was filed by the petitioners against the de-occupation notice dated 08.07.2022.



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5. It is also seen from the impugned order that the request for grant of patta was rejected by the District Collector, Thiruvallur, vide proceedings dated 30.09.2017 as the said property is Government Punjai Tharisu land. The appeal filed by the petitioner was also dismissed by the Commissioner of Land Administration on 25.10.2018. In compliance of the order dated 09.03.2023 passed by this Court in W.P.No.5395/2023 directing the 1st respondent to dispose of the appeal filed by the petitioner within three months after giving opportunity to the petitioner, an enquiry was conducted on 28.04.2023, in which, the petitioner and the officials of the Greater Chennai Corporation were present. The petitioners do not have patta for the property. Therefore, the approval for the building cannot be obtained without ownership of the property. After carefully considering the facts and submissions made, the 1st respondent dismissed the revision petition filed by the petitioner under Section 80(A), with which, we do not find any justifiable reasons to interfere with. Therefore, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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

27.11.2023

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vsi

Index : Yes / No

Internet : Yes / No



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To

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and
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