



W.P.No.27376 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2023

CORAM

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

W.P.No.27376 of 2023

Jithesh Kumar

.... Petitioner

vs

The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai- 600 008.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus Directing the respondent from taking any coercive action till such time the regularization application under Sec.113 C before the respondent is fully decided.

For Petitioner : Mr.L.Chandrakumar
For Respondent : Mr.C.N.Vinobha
Standing Counsel.

ORDER



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

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This writ petition has been filed to issue a Writ of Mandamus directing the respondent not to take any coercive action against the petitioner till such time the regularization application under Section 113 C before the respondent is decided.

2. It is averred in the writ petition that the petitioner constructed a residential building before the year 2005. Subsequently, in the year 2017, the petitioner's building was locked and sealed by the Respondent official. While so, he preferred Revision Petition under Section 80A, before the Secretary, Housing and Urban Development Department.

3. During the pendency of the Revision Petition on 19.12.2018, petitioner and his sister one Sangeetha Kumari, who is the share holder of 1/3rd share in the subject property made application to the respondent for regularising the building under Section 113-C of the Tamil Nadu Town and Country Planning Act 1971.

4. The learned counsel appearing for the respondent would



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submit that the matter regarding regularization under Section 113 - C of the Town and Country Planning Act, is pending before the Hon'ble Supreme Court. He further drew the attention of this Court to the order passed by the Hon'ble First Bench of this court in W.P.No.9725 of 2017 by order dated 27.07.2023 [***K.Perumal Vs. The State of Tamil Nadu, Rep.by the Secretary to Government and others***], wherein it is 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."

5. In view of the fact that the matter regarding regularization



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is seized of by the Hon'ble Supreme Court, the respondents have to await the orders of the Supreme Court. The petitioner is entitled to agitate the issue afresh, after the orders are passed by the Supreme Court, on the subject matter. Till then, the respondent is directed not to take any coercive step against the petitioner. Accordingly, the writ petition is allowed. No costs.

(J.N.B., J.) (N.M., J.)
26.09.2023

Index : Yes / No
Speaking Order : Yes/No
Neutral citation : Yes / No
dsn

To



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J. NISHA BANU, J.
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