



WEB COPY



W.P.No.28343 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2023

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THE HON'BLE MRS. JUSTICE J.NISHA BANU
and
THE HON'BLE MRS. JUSTICE N.MALA

W.P.No.28343 of 2023

S.KALYANASUNDARAM

... Petitioner

Vs.

1. THE MEMBER SECRETARY
CHENNAI METROPOLITAN DEVELOPMENT AUTHORITY,
NO.1, GANDHI IRWIN BUILDING,
EGMORE, CHENNAI- 600 008.

2. THE COMMISSIONER
GREATER CHENNAI CORPORATION,
CHENNAI-600 003.

3. THE EXECUTIVE ENGINEER
ZONE-VIII, GREATER CHENNAI CORPORATION,
NO.36B, PULLA AVENUE,
SHENOY NAGAR, CHENNAI- 030.

Respondents

...

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the 3rd Respondent not to take any coercive steps pursuant to the Lock and Seal notice vide Notice No.Zone VIII/



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TPENG/ 277/ 2021 dated 19.07.2021 issued under Section 56 and 57 read with section 85 of the Tamil Nadu Town and country Planning Act, 1971, with respect to the premises situated at Flat bearing No.U2, in the first floor, measuring about 1440 sq.ft. Sri Sylam of Sri Mahalakshi Enclave, situate at New door No.24/15, old No. 75/15, plot Nos. 4 and 5, part, Gandhi Road, Gill Nagar, Choolaimedu, Chennai- 600 094 pending determination of the application for regularisation under Section 113-C of the Tamil nadu Town and Country Planning Act before the 1st Respondent vide Receipt No.CMDA/ Reg- 113-C/ 2302/ 2021 dated 29.07.2021.

For Petitioner : Mr.K. Sivasubramanian
For Respondents : Mr.C.N. Vinoba
Standing Counsel for R1
Mr.D.B.R. Prabhu Standing Counsel
for R2&R3

ORDER

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

This Writ Petition has been filed praying to Direct the 3rd Respondent not to proceed in any manner or take any coercive steps pursuant to the Lock and Seal notice vide Notice No.Zone VIII/ TPENG/ 277/ 2021 dated 19.07.2021 issued with respect to the premises situated at Flat bearing No.U2, New door no.24/15, Old no. 75/15, plot nos.4 & 5 part, first floor Sri Sylam of



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Sri Mahalakshi Enclave, Gandhi Road, Gill Nagar, Choolaimedu, Chennai-600 094, pending determination of the application for regularisation under Section 113-C before the 1st respondent vide receipt No.CMDA/ Reg- 113-C/ 2302/ 2021 dated 29.07.2021.

2. It is averred in the writ petition that the petitioner constructed a residential building at the above mentioned address during the year 1998. While so, the respondents herein issued a Lock and Seal notice dated 19.07.2021 in No. Zone VIII/TPENF/277/2021 under section 56 & 57 read with section 85 of the Tamil Nadu Town and Country Planning Act, 1971.

3 As against the above said notice dated 19.07.2021, the petitioner filed an application for regularizing his premises under Section 113 -C of the Tamil Nadu Town and Country Planning Act, 1971 before the 1st respondent on 29.07.2021.

4.The learned Standing counsel appearing for the 1st respondent would submit that the matter regarding regularization under Section 113 – C of the



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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 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 issue afresh, after the orders are passed by the Supreme Court, on the subject



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matter. Accordingly, the writ petition is disposed of. No costs.

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(J.N.B., J.) (N.M., J.)
27.09.2023

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Index : Yes/No

Speaking order/Non-speaking order

To:

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J.NISHA BANU, J.,
and
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Dated:
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