



W.P.No.30767 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2023

CORAM

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

W.P.No.30767 of 2023
and
W.M.P.No.30426 of 2023

1. A.K.Mohamed Yunus,
S/o A.K.Kamaludeen
 - 2 A.K.Mohamed Ashfaque,
S/o A.K.Kamaludeen
 3. A.K.Rizwanur Rahaman,
S/o A.K.Kamaludeen
- Petitioners

vs

1. The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai - 600 003.
2. The Executive Engineer, Zone VIII,
Greater Chennai Corporation,
II cross Street, East Pulla Avenue,
Shenoy Nagar,
Chennai-600 030



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3. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore,
Chennai.

4. The Principal Secretary to Government,
Housing and Urban Development Department,
St.George Fort,
Secretariat,
Chennai - 600 009.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents 1 to 3 and its men and agents form any manner interfering with the peaceful possession and enjoyment of the petitioner's property bearing Door INo.R34, Elango Street, MMDA Colony, Arumbakkam, Chennai - 106 pending disposal of the stay petition filed on 20.07.2023 before the 4th respondent herein and application under section 113-C in CMDA/Reg-113C/2770/2022 dated 19.09.2022 before the 3rd respondent herein.

For Petitioners : Mr.I.Kowser Nissar

For Respondents : Mr.D.B.R.Prabu,
Standing Counsel for R1 & R2
Mr.R.Thamarai Selvan,
Standing counsel for R3
Mr.Abishekmoorthy,
Government Advocate for R4



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ORDER

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

Mr.D.B.R.Prabu, learned Standing counsel takes notice for the 1st and 2nd respondents. Mr.R.Thamarai Selvan,learnred Standing Counsel takes notice for the 3rd respondent. Mr.Abishekmoorthy, learned Government Advocate takes notice for the 4th respondent. By consent of both parties, the main writ petition is taken up for disposal at the admission stage itself.

2. This Writ Petition has been filed to issue a Writ of Mandamus forbearing the respondents 1 to 3 and its men and agents from any manner interfering with the peaceful possession and enjoyment of the petitioners' property bearing Door No.R34, Elango Street, MMDA Colony, Arumbakkam, Chennai - 106 pending disposal of the stay petition filed on 20.07.2023 before the 4th respondent herein and application under section 113-C in CMDA/Reg-113C/2770/2022 dated 19.09.2022 before the 3rd respondent herein.

3. Learned counsel for the petitioner would state that the petitioners are the absolute owners of the aforesaid property. The petitioners' predecessor in title had put up the ground and first floor superstructure in the



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said property in the year 1991 after obtaining planning permission. The petitioners had put up the 2nd floor. The 2nd respondent issued locking and sealing and demolition notice dated 30.08.2022. Though the building has been put up strictly in adherence to the approved plan, there are few minor deviations which could be condoned and they have filed application under section 113-C of the Tamilnadu Town and Country Planning Act before the 3rd respondent and the same is pending. The 2nd respondent served de-occupation notice dated 29.05.2023. The petitioners, by way of abundant caution challenged the lock and seal notice and demolition notice under section 80-A of the Tamilnadu Town and Country Planning Act, 1971 along with stay petition before the 4th respondent on 20.07.2023 and the same is pending. Now, the respondents 1 to 3 are attempting to interfere with the petitioners' peaceful possession of the above said property. The stay petition has not been considered till date by the 4th respondent.

4. Considering the above submission made by the learned counsel for the petitioners, without expressing any view on the merits of the claim made by the petitioners, the 4th respondent is directed to consider the appeal filed by the petitioners dated 20.07.2023 and pass orders on the same on merits and in accordance with law, within a period of eight weeks from the date of



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receipt of a copy of this order. Till such time, the respondents shall not take any coercive action as against the subject property in issue. No costs. consequently, connected miscellaneous petition is closed.

(J.N.B.,J.) (N.M.,J.)
20.10.2023

Index: Yes/No
Speaking/Non-speaking order
vsi

To

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Greater Chennai kCorporation,
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