



WEB COPY



W.P.No.29984 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2023

CORAM

THE HON'BLE MRS. JUSTICE J.NISHA BANU

and

THE HON'BLE MRS. JUSTICE N.MALA

W.P.No.29984 of 2023

T.Karthikeyan

... Petitioner

Vs.

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

2.The Executive Engineer,
Zone-IX, Greater Chennai Corporation,
No.1, Lake Area, 4th Cross Street,
Nungambakkam, Chennai - 600 034

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to forbear the 2nd respondent from taking any coercive steps pursuant to the de-occupation notice dated 13.09.2023 issued under Section 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971 pending determination of the application for regularisation filed by the petitioner under Section 113-C of the Tamil Nadu Town and Country



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Planning Act, 1971 before the 1st respondent with respect to the premises at G-1, Ground Floor, Rajathi Apartments, No.19/1, South Boag Road, T.Nagar, Chennai - 600 017.

For Petitioner : Mr.K. Sivasubramanian
For Respondents : Mr.Thamaraiselvan
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 forbear the 2nd respondent from taking any coercive steps pursuant to the de-occupation notice dated 13.09.2023 issued under Section 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971 pending determination of the application for regularisation filed by the petitioner under Section 113-C of the Tamil Nadu Town and Country Planning Act, 1971 before the 1st respondent with respect to the premises at G-1, Ground Floor, Rajathi Apartments, No.19/1, South Boag Road, T.Nagar, Chennai - 600 017.



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2. Learned counsel for the petitioner would submit that the petitioner is the owner of the residential flat situated at G-1, Ground Floor, Rajathi Apartments, No.19/1, South Boag Road, T.Nagar, Chennai – 600 017 and he is in peaceful possession and enjoyment of the said property. The property was constructed as early as in the year 1985 after obtaining planning permission and building approval from the authority concerned. While being so, the 2nd respondent issued a notice dated 15.12.2012, calling for approved plan with respect to the above building. Further, the 2nd respondent issued the lock and seal notice dated 06.07.2012 and de-occupation notice dated 24.08.2012.

3 As against the above said notice dated 24.08.2012, 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 11.10.2018.



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4.The learned Standing counsel appearing for the 1st respondent would 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.”



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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 and the respondents is to await the orders of the Supreme Court. The petitioner as well as respondents are entitled to agitate the issue afresh, after the orders are passed by the Supreme Court, on the subject matter. Till then, the respondents are directed not to take any coercive steps. Accordingly, the writ petition is allowed. No costs.

(J.N.B., J.) (N.M., J.)
13.10.2023

msv

Index : Yes/No

Speaking order/Non-speaking order

To:

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and
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Dated:
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