



WEB COPY

W.P.No.404 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.404 of 2023

M.Abitha Banu

.. Petitioner

Vs.

- 1.State of Tamil Nadu,
rep. by the Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai – 600 009.
- 2.The Additional Secretary (Technical),
Housing and Urban Development Department,
Secretariat, Chennai – 600 009.
- 3.The Commissioner,
Greater Chennai Corporation,
Chennai – 600 003.
- 4.The Regional Deputy Commissioner (Central),
RDC (Central Office),
Greater Chennai Corporation,
No.36 B, Pulla Avenue,
Shenoy Nagar, Chennai – 600 030.
- 5.The Executive Engineer,
Central Region Zone VIII,
Greater Chennai Corporation,
2nd Cross Street, Pulla Avenue,
Shenoy Nagar, Chennai – 600 030.

.. Respondents



WEB COPY



W.P.No.404 of 2023

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records in the order bearing Lr.No.12234/nava.6(2)/2022-7 dated 30.11.2022 passed by the respondent no.2 and quashing the same and directing the respondent no.1 to decide the representation of the petitioner dated 07.07.2022 in accordance with law and remove the lock and seal of the premises of the petitioner bearing Door No.113, Periyar Pathai West, Arumbakkam, Chennai – 600 106 and permit the petitioner to reside therein along with her family members for a specified period.

For Petitioner : Mr.M.Radhakrishnan
for Mr.P.Pugalenth

For RR 1 & 2 : Mr.A.Selvendran
Special Government Pleader

For RR 3 to 5 : Mr.D.B.R.Prabhu
Standing Counsel

ORDER

(Order of the Court was delivered by V.M.VELUMANI,J.)

The petitioner has come out with the present Writ Petition to call for the records of the 2nd respondent in the order bearing Lr.No.12234/nava.6(2)/2022-7 dated 30.11.2022, quash the same and for a direction to the 1st respondent to decide the representation of the



WEB COPY

W.P.No.404 of 2023



petitioner dated 07.07.2022 in accordance with law and remove the lock and seal of the premises of the petitioner bearing Door No.113, Periyar Pathai West, Arumbakkam, Chennai – 600 106 and permit her to reside therein along with her family members for a specified period.

2.Mr.A.Selvendran, learned Special Government Pleader takes notice for respondents 1 & 2 and Mr.D.B.R.Prabhu, learned Standing Counsel takes notice for respondents 3 to 5.

3.Heard the learned counsel appearing for the petitioner, learned Special Government Pleader appearing for respondents 1 & 2 and the learned Standing Counsel appearing for respondents 3 to 5 and perused the entire materials on record.

4.From the materials on record, it is seen that the petitioner's husband in the year 2003 constructed a residential building at Door No.113, Periyar Pathai West, Arumbakkam, Chennai – 600 106, without obtaining permission from the authorities. The 5th respondent issued De-occupation notice dated 21.12.2018, under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971. The petitioner filed appeal under Section 80(A) of the Tamil Nadu



WEB COPY

Town and Country Planning Act, 1971, before the 2nd respondent. The 2nd respondent by the order dated 01.10.2019 rejected the said appeal directing the 3rd respondent to initiate further proceedings. The petitioner filed W.P.No.29847 of 2019 challenging the said order. The Division Bench of this Court by the order dated 17.10.2019 dismissed the said Writ Petition. Thereafter the petitioner filed SLP (Civil) No.27198 of 2019 before the Hon'ble Apex Court. The Hon'ble Apex Court by the order dated 22.11.2019 dismissed SLP (Civil) No.27198 of 2019 and granted liberty to the petitioner to file Review Petition before the Division Bench of this Court. According to petitioner, she filed Review Petition and the same is pending in Review Application No.43 of 2020 before this Court. While so, the respondents 3 to 5 evicted the petitioner and her family members and put a lock and seal of the premises.

5.The petitioner filed W.P.No.23457 of 2021 for a direction to the respondents 3 to 5 to remove the lock and seal put up by the respondents 3 to 5. On 27.04.2022, when W.P.No.23457 of 2021 was taken up for hearing, the petitioner sought permission of this Court to withdraw the Writ Petition with liberty to the petitioner to approach the Government to de-seal the property. This Court by order dated 27.04.2022 dismissed the

Writ Petition as withdrawn and granted liberty to approach the



WEB COPY

Government. The petitioner gave representation dated 07.07.2022 to the 1st respondent for removal of “Lock and Seal” put up by the respondents 3 to 5. The 2nd respondent by the impugned order dated 30.11.2022 rejected the representation of the petitioner dated 07.07.2022. Hence, the petitioner has come out with the present Writ Petition.

6.The learned counsel appearing for the petitioner submitted that the petitioner has given representation to the 1st respondent and the 2nd respondent without any authority has rejected the said representation.

7.From the above facts, it is clear that superstructure put up by the petitioner is without permission and approval and therefore, it is unauthorized construction. The petitioner challenged the De-occupation notice dated 21.12.2018 issued by the 5th respondent under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 before this Court by filing W.P.No.29847 of 2019 and on dismissal of W.P.No.29847 of 2019, the petitioner filed SLP before the Hon'ble Apex Court in SLP (Civil) No.27198 of 2019. She withdrew the said SLP (Civil) No.27198 of 2019 with liberty to file Review Petition. Subsequently, the petitioner also challenged the action of the 5th respondent in locking and sealing of the premises of the



petitioner by filing W.P.No.23457 of 2021 before this Court. This Court by the order dated 27.04.2022 dismissed the said Writ Petition as withdrawn and granted liberty to the petitioner to approach the Government to de-seal the property.

8.From the impugned order dated 30.11.2022, it is seen in that in W.P.No.23457 of 2021 challenging the locking and sealing of the premises on 23.10.2021, this Court on 28.10.2021 passed an interim order directing the Corporation to remove the lock and seal for one hour. Challenging the said order, the petitioner filed SLP (Civil) No.18876 of 2021 before the Hon'ble Apex Court. The Hon'ble Apex Court by the order dated 04.02.2022, directed the petitioner, if so she desires, to approach the authority for removal of lock and seal for one week for taking her articles from the premises. The 3rd respondent by the proceedings dated 16.03.2022, passed an order to implement the order of the Hon'ble Apex Court. The petitioner did not approach the Corporation for such relief. But after dismissal of W.P.No.23457 of 2021 by the order dated 22.04.2022, the petitioner gave representation dated 07.07.2022 to the 1st respondent to remove the lock and seal permanently to enable the petitioner to reside therein.



W.P.No.404 of 2023

WEB COPY

9.From the above materials it is seen the unauthorized construction put up by petitioner's husband is locked and sealed. The Revision filed by the petitioner before the 2nd respondent challenging the De-occupation notice was rejected. The Writ Petition and SLP filed by the petitioner were also dismissed. Similarly, the proceedings initiated by the petitioner challenging the locking and sealing were also dismissed and by the impugned order, the 2nd respondent rejected the request of the petitioner for removing the seal permanently. The petitioner is not entitled to removal of lock and seal permanently in respect of the unauthorized construction. In view of the order passed by the respondents, this Court and by the Hon'ble Apex Court, the contention of the learned counsel appearing for the petitioner that 2nd respondent has no authority to reject the request of the petitioner is not acceptable. The petitioner is not entitled for the relief sought for in the present Writ Petition.

10.Accordingly, the Writ Petition is dismissed as devoid of merits.

No costs.

(V.M.V., J) (R.H., J)
09.01.2023

krk

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No



W.P.No.404 of 2023

and

R.HEMALATHA, J.

krk

To

- 1.State of Tamil Nadu,
rep. by the Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai – 600 009.
- 2.The Additional Secretary (Technical),
Housing and Urban Development Department,
Secretariat, Chennai – 600 009.
- 3.The Commissioner,
Greater Chennai Corporation,
Chennai – 600 003.
- 4.The Regional Deputy Commissioner (Central),
RDC (Central Office),
Greater Chennai Corporation,
No.36 B, Pulla Avenue,
Shenoy Nagar, Chennai – 600 030.
- 5.The Executive Engineer,
Central Region Zone VIII,
Greater Chennai Corporation,
2nd Cross Street, Pulla Avenue,
Shenoy Nagar, Chennai – 600 030.

W.P.No.404 of 2023

09.01.2023