



WEB COPY



W.P.No.35232 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2023

CORAM

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

W.P.No.35232 of 2023

S.Dharmalingam

... 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, for issuance of Writ of Mandamus, to direct the respondent from taking any coercive action till such time the regularization application under Sec.113C before the respondent is fully decided.

For Petitioner : Mr.L.Chandrakumar

For Respondent : Mr.R.Thamaraiselvan
Standing Counsel



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ORDER

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

This Writ Petition has been filed to direct the respondent from taking any coercive action till the regularization application filed under Section 113C before the respondent is fully decided.

2. It is averred in the writ petition that the petitioner purchased vacant Plot Nos.12,13,14 and 15 in L.A.No.11/86, T.S.No.2/5, Parameswari Nagar, 4th Street, Adyar, Chennai-20 and constructed 36 flats in G + 2 Floors as per CMDA plan approval in Lr.No.B/2306/89 dated 09.11.1989 during 1990-92. He sold all the flats along with undivided share (UDS) lands and got registered 125/500 Undivided Shares vide sale deed dated 30.03.1990 in favour of his wife for the 14 flats in 3rd floor anticipated to be constructed on a later stage.

3. The petitioner further states that in the year 1999, they constructed 14 flats in the 3rd floor and sold all the flats to various prospective purchasers and obtained corporation assessment and electricity connection.



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In the meanwhile, the Govt of Tamilnadu announced a scheme for regularization of unauthorised construction in the year 2000. The petitioner applied for regularisation of 14 flats in 3rd floor vide application dated 31.10.2000 and paid regularization fee of Rs.14,00,000/-. The petitioner is stated to have applied for regularisation in Scheme 2017 under Section 113C of Tamil Nadu Town and Country Planning Act, 1971, but the same has not been considered by the respondent till date. Aggrieved by the same, the present writ petition.

4. Heard the learned counsel on either side and perused the materials available on record.

5. It is submitted that the petitioner has filed an application for regularisation u/s.113-C of the Tamil Nadu Town and Country Planning Act, before the Directorate of Town and Country Planning in the year 2018 itself. In the meantime, the Government Order permitting regularisation is set aside by this Court and now, the matter is subjudice before the Hon'ble Supreme Court.



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6. The learned Standing Counsel appearing for the respondent relied on the judgment of this court dated **27.07.2023 in W.P.No.9725 of 2017** and prayed this court to take a similar view in this matter.

7. 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*], while dealing with the writ petitions seeking directions to enforce the locking and sealing and demolition notice, 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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8. In view of the fact that the matter regarding regularization is seized of by the Hon'ble Supreme Court, the petitioner as well as the respondent has to await the orders of the Supreme Court. They are 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.)

21.12.2023

msv

Index : Yes / No

Internet : Yes / No

Neutral citation : Yes / No

To

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Chennai Metropolitan Development Authority,
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and
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