



WEB COPY



W.P.No.26925 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2024

CORAM :

THE HON'BLE MR.D.KRISHNAKUMAR, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.P.No.26925 of 2024

1. A.K.MOHAMED YUNUS
2. A.K.MOHAMED ASHFAQUE
3. A.K.RIZWANUR RAHAMAN

.. Petitioners

Vs

1. GOVERNMENT OF TAMIL NADU
REP BY ITS SECRETARY,
HOUSING AND URBAN DEVELOPMENT DEPARTMENT
SECRETARIAT, CHENNAI,
TAMIL NADU - 600009.
2. CHENNAI METROPOLITAN DEVELOPMENT AUTHORITY (C.M.D.A)
THALAMUTHU NATARJAN MAALIGAI,
NO.1, GANDHI IRWIN ROAD,
EGMORE, CHENNAI - 600 008.
3. THE COMMISSIONER
GREATER CHENNAI CORPORATION,
RIPPON BUILDING, CHENNAI - 600 003.
4. THE EXECUTIVE ENGINEER, ZONE VIII
GREATER CHENNAI CORPORATION,
II CROSS STREET, EAST PULLA AVENUE,
SHENIOY NAGAR, CHENNAI - 600 030.

.. Respondents



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Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus to forbear respondents 3 and 4 from taking any coercive action pursuant to the De-occupation Notice dated 18.07.2024 issued under the Tamil Nadu Town and Country Planning Act, 1971 pending determination of the application for regularization filed by the petitioner u/s 113-C of the Tamil Nadu Town and Country Planning Act, 1971 before the 2nd respondent with respect of the premises at Door No.R34, Elango street, M.M.D.A. Colony, Arumbakkam, Chennai - 600 106.

For the Petitioners : Mr.V.Vijayashankar
for M/s.PVS Giridhar Associates

For the Respondents : Mrs.Aswini Devi
Standing Counsel
for respondents 3 and 4

: Mr.M.Habeeb Rahman
Government Advocate
for 1st respondent

: Mr.C.Manoharan
Standing Counsel
for 2nd respondent

ORDER

(Order of the Court was made
by the Hon'ble Acting Chief Justice)

The petitioners have filed this writ petition seeking issuance of a writ of mandamus to forbear respondents 3 and 4 from taking any coercive action pursuant to the De-occupation Notice dated



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18.07.2024 issued under the Tamil Nadu Town and Country Planning Act, 1971, pending determination of the application for regularization filed by the petitioner u/s 113-C of the Tamil Nadu Town and Country Planning Act, 1971 before the second respondent with respect of the premises at Door No.R34, Elango street, M.M.D.A. Colony, Arumbakkam, Chennai - 600 106.

2. Learned counsel for the petitioners submits that the application dated 19.9.2022 submitted by the petitioners under Section 113-C of the Act is pending consideration before the competent authority. Without passing any order on the said application, the impugned notice dated 18.7.2024 has been issued and, therefore, the same is arbitrary.

3. Learned counsel for the petitioners further submitted that, under identical circumstances, a Division Bench of this Court, vide order dated 3.3.2023 passed in W.P.No.1544 of 2023, had directed the authorities to process the applications filed under Section 113-C of the Act, but not to pass any final orders, pending disposal of the



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petitions challenging the constitutional validity, and the respondents were also restrained from taking any coercive steps till then. He prayed for a similar direction in the instant writ petition.

4. Learned counsel for the respondents have no serious objection for passing an order on the same lines as in W.P.No.1544 of 2023, dated 3.3.2023.

5. In the light of the above, we dispose of the writ petition with the following directions:

- (i) the second respondent is directed to process the application of the petitioners dated 19.9.2022, but no final orders shall be passed till the disposal of the petitions challenging the constitutional validity of Section 113-C of the Act by the Supreme Court; and
- (ii) The respondents shall not take any coercive steps pursuant to the impugned notice dated 18.7.2024.

There shall be no order as to costs. Consequently,



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W.M.P.No.29443 of 2024 is closed.

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(D.K.K., ACJ.) (P.B.B, J.)
18.09.2024

Index : Yes/No
NC : Yes/No
sasi

To:

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GOVERNMENT OF TAMIL NADU
HOUSING AND URBAN DEVELOPMENT DEPARTMENT
SECRETARIAT, CHENNAI,
TAMIL NADU – 600009.
2. CHENNAI METROPOLITAN DEVELOPMENT AUTHORITY (C.M.D.A)
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