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WP.No.454 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2025

CORAM:

THE HONOURABLE Mr.JUSTICE **R.SUBRAMANIAN**
AND

THE HONOURABLE Mr.JUSTICE **C.KUMARAPPAN**

WP No.454 of 2025

and

WMP Nos.529 & 530 of 2025

1. Roshan Dominic Jude Rayen
2. Lourdes Joavani

.... Petitioners

Vs

1. The Secretary to Government,
Housing and Urban Development Department,
Secretariat,
Chennai-600 009.
 2. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maaligai,
Egmore, Chennai-600 008.
 3. Bala Rajeswari
 4. Dr.V.Alexander
 5. Dr.S.Vincent
 6. A.Rajkumar
 7. Raveendran Jacob
- (R3 to R7 impleaded vide order dated 20.01.2025
made in WMP.No.1850 of 2025)

.... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, directing the 2nd Respondent to dispose the petitioners representation dated 24.12.2024 and to remove the lock and seal of the building premises at Door No 36 Ground floor, Tank Bund Road, Nungambakkam, Chennai 600 034 pending statutory appeal under section 80-A of the Tamil nadu Town and country planning Act 1971 against the alleged Notice dated 19.10.2024 before the 1st Respondent.

For Petitioners : Mr.S.Haja Mohideen Gisthi

For Respondents : Mr.P.Balathandayutham
Special Government Pleader for R1
Mr.Y.Bhuvaneshkumar
Standing Counsel for CMDA for R2

ORDER

[Order of the Court was made by **R.SUBRAMANIAN, J**]

The petitioner seeks a writ of Mandamus directing the respondents to remove the lock and seal in the Ground Floor of the building bearing Door No 36, Tank Bund Road, Nungambakkam, Chennai 600 034 pending the statutory appeal.



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2. The petitioners were visited with a notice for complying with the building permission on 13.02.2024. They have preferred an appeal before the Government under Section 80A of The Tamil Nadu Town and Country Planning Act, 1971. The petitioners also filed a writ petition in WP.No.7353 of 2024 seeking a Mandamus directing the Government to dispose of the Revision filed under Section 80A of the Tamil Nadu Town and Country Planning Act, 1971. This Court directed the Government to dispose of the appeal within a period of sixteen weeks from the date of receipt of a copy of this order. Pursuant to the said direction, the Revision under Section 80A was disposed of by the Government on 10.09.2024 concluding that the lock and seal and demolition notice dated 13.02.2024 is defective and there was also a direction to take further proceedings by issuing revised notices. Thereafter, the building in question was locked and sealed by the Corporation on 24.12.2024. Claiming that there was no notice to them before the locking and sealing, the petitioner has come up with the instant writ petition.

3. Since it was claimed by the CMDA that a notice was served on the petitioner on 19.10.2024, we had required the CMDA to produce the records



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to demonstrate the service of notice. The records have been produced. We find that a notice dated 19.10.2024 was served on certain persons including the complainant Tmt.Bala Rajeswari and her counsel Mr.T.K.S.Gandhi. It is also claimed that notice addressed to the petitioners herein was served on the person, who was working in the clinic of the petitioners, since the petitioners were absent. The manner of service of notice under the Town and Country Planning Act has been set out in the Rules namely the Tamil Nadu Town and Country Planning [Removal of unauthorised Development] Rules, 2022. Rule 9 of the Said Rules reads as follows:-

“9. Mode of service of notice -Any notice issued to any person under these Rules shall be served on him, -

- a) by giving or tendering such notice in person or to some adult member of his family; or*
- b) If such person is not found, by forwarding such notice to him by registered post to the address of his last known residence, or office or any other address where he is known to be available, or*
- c) If he cannot be reached by the above means, by causing a copy of such notice to be affixed on some conspicuous part of the building or land, to which the notice relates.”*

4. A reading of the above Rule shows that notices shall be served on



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the Noticee or an adult member of his/her family. If such person is not found, then a notice will have to be sent by Registered Post. If both the modes are not feasible, then service by affixture at a conspicuous part of the building or land, to which the notice relates is also provided. Admittedly, the notice dated 19.10.2024 has not been served in the manner prescribed in the provision relating to service of notices. Therefore, it is clear that there was no proper notice before the locking and sealing of the premises. Notice on counsel for the parties is not contemplated. If the CMDA chooses to serve notice on the counsel for the parties, then the notice should be served on the counsel for all the parties and not on some of the parties only.

5. One Mrs.G.Alamelu, Planning Assistant Grade-II has filed an affidavit stating that there was no evil intention in serving notices on the counsel for the complainant only. She had also stated that non service of notice on the counsel for the petitioners, who are the persons ultimately affected by the order is not intentional. The said affidavit is accepted.



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6. Since it is now found that there was no proper notice before the locking and sealing of the premises, the writ petition will stand allowed. There will be a direction to the respondents to remove the lock and seal forthwith. Liberty is reserved to the respondents to proceed afresh in accordance with law. No costs. Consequently, connected WMPs are also closed.

[R.S.M., J] [C.K., J]
20.01.2025

Index : No

Internet: Yes

Speaking Order

NCC : No

kmi

Note: Issue Order copy on 27.01.2025

To

1. The Secretary to Government,
Housing and Urban Development Department,
Secretariat,
Chennai-600 009.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maaligai,
Egmore, Chennai-600 008.



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