

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.01.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

WP.No.126/2021 & WMP.No.183/2021

[Video Conferencing]

1.George Simon
2.V.Palaniappan
3.S.Vasu
4.Sandeep
5.G.Shankaranarayanan
6.Balaji Nagarajan
7.N.Bhuvaneshwari

..Petitioners

Versus

1. Government of Tamil Nadu
rep.by its Secretary to Government
Housing & Urban Development Department,
Secretariat, Chennai 600 009.
2. Greater Chennai Corporation
rep.by its Commissioner
Ripon Buildings, Chennai 600 003.
3. Corporation of Chennai
rep.by its Executive Engineer
Zone-10, Division-129, Unit 29
No.117, NSK Salai, Kodambakkam
Chennai 600 024.

..Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus forbearing the 2nd and 3rd respondents from in any way interfering with the petitioners' residential building at Plot No.10 and 11/1, Rajendra Colony, Arunachalam Road, Saligramam, Chennai 600 093, particularly by way of locking and sealing and or demolition of any portion or portions thereof in the aforesaid building penidng final determination of petitioners' special revision petition dated 19.12.2020 received by the 1st respondent on 22.12.2020 under section 80[A] and 80[A][3] of the Town and Country Planning Act, 1971.

For Petitioners: Mr.D.S.Rajasekaran

For R1 : Mr.R.Vijayakumar
Additional Government Pleader

For RR2&3 : Mr.K.Raja Srinivas
Standing counsel

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

(1) By consent, the writ petition is taken up for final disposal and is disposed of by this order.

(2) Mr.R.Vijayakumar, learned Additional Government Pleader accepts notice on behalf of the 1st respondent and Mr.K.Raja Srinivas, learned Standing counsel accepts notice on behalf of respondents 2 and 3.

(3) The petitioner, in the affidavit filed in support of this writ petition would aver among other things that Plot Nos.10 and 11 of Rajendra Colony, Arunachalam Road, Saligramam, Chennai-93, was developed and promoted by M/s.Maayapuri Constructions, after obtaining due Planning Permission from the office of the 3rd respondent vide PPA Nos.480 and 481 of 2001 dated 31.01.2001 for the construction of ground and first floors consisting of 8 residential dwelling units and it came to be completed in the year 2001. The petitioners, after completion of construction, had purchased their respective portions along with Undivided Share of land through registered Sale Deeds of the year 2001 and their respective flats have also been assessed to statutory levies.

(4) The learned counsel for the petitioner would submit that to the shock and surprise of the petitioners, nearly after 20 years of completion of construction and occupation, the 3rd respondent had issued the Stop Work/calling for approved plan Notice to all of them by individual notices dated 07.09.2020 for which also, a detailed reply has been sent on 11.09.2020. The 3rd respondent did not take into consideration the contents of the reply and started proceeding further in the form of Locking and Sealing and Demolition Notices dated 11.11.2020 and 12.11.2020 respectively to the petitioners alleging some on-going construction in the form of deviation. It is the submission of the learned counsel for the petitioners that challenging the notices dated 11.11.2020 and 12.11.2020, all the petitioners had jointly filed special revision/appeal under section 80-A of the Town and Country Planning Act, 1971, along

with petition for interim orders before the 1st respondent and the same were also acknowledged and however, the sid petitions have not been taken up for hearing and the 3rd respondent, taking advantage of the same, has issued the De-Occupation Notice dated 28.12.2020 and it is the submission of the learned counsel that admittedly, the premises sought to be de-occupied vide the De-Occupation Notice, are residential in nature and most of the petitioners are old and suffering due to age related illness and at least, till the disposal of the petition for stay by the 1st respondent, the 3rd respondent may defer further proceedings and prays for appropriate orders.

(5) The Court heard the submissions of Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the 1st respondent and Mr.K.Raja Srinivas, learned Standing counsel appearing for respondents 2 and 3 and perused the materials placed before it.

(6) Though the petitioners had prayed for a larger relief, this Court in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioners, either in their special revision/appeal or in this writ petition, directs the 1st respondent to entertain the special revision/appeal, if the papers are otherwise in order and take up the petition for interim relief, at the first instance and give a disposal in accordance with law within a period of three weeks from the date of receipt of a copy of this order/uploading of the order in the website and till such time, the 3rd respondent shall defer further decision in terms of the De-Occupation Notice dated 28.12.2020. It is also open to the 1st respondent to dispose of the main revision/appeal itself at an early date.

(7) The writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

sd/-

Assistant Registrar(L.A)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government
Government of Tamil Nadu
Housing & Urban Development Department,
Secretariat, Chennai 600 009.

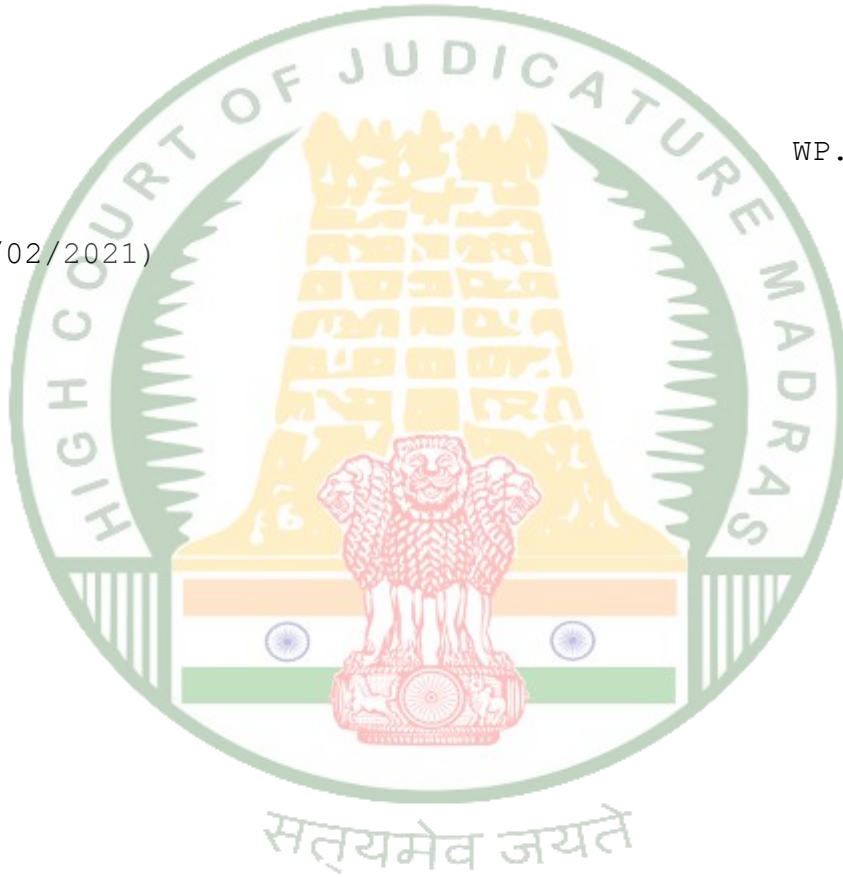
2. Commissioner
Greater Chennai Corporation
Ripon Buildings, Chennai 600 003.

3. Executive Engineer
Corporation of Chennai
Zone-10, Division-129, Unit 29
No.117, NSK Salai, Kodambakkam
Chennai 600 024.

+lcc to Mr.D.S.Rajasekaran, Advocate, S.R.No.375
+lcc to the Government Pleader, S.R.No.1105

WP.No.126/2021

gmr (co)
rr ii (03/02/2021)



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