



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

W.P.No.13559 of 2021
and
W.M.P.No.14428 of 2021

1. K.Sureshkumar
Son of Kanyalal,
Hindu, Aged 41 years
2. K.Santhosh Bhati,
Son of Kanyalal, aged 40 years

Both are residing at No.5/15,
PP Garden 1st Street,
Poonamallee High Road,
Chennai 600 029.

...Petitioners

Vs

- 1.The State of Tamil Nadu,
Rep. by Secretary to Government,
Housing and Urban Development Department,
Fort St. George,
Chennai 600 009.
- 2.The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai 600 003.
- 3.The Executive Engineer,
Zone - VIII,
Greater Chennai Corporation,
2nd Cross Street (East)
Pullah Avenue, Shenoy Nagar,
Chennai 600 030.

...Respondents

PRAYER : Petition filed under Article 226 of Constitution of India for issuance of Writ of Mandamus directing the 2 and 3 respondents to forthwith remove the lock and seal affixed on 08.02.2021 in the Petitioners property situated at Old No.322/2,



New No.642, 643, 646, 647 and 655, Poonamallee High Road, Aminjikarai, Chennai 600 029 so as to enable the Petitioner to rectify and restore the said premises in conformity with the sanctioned plan and in consonance with the present development rules 2019 and on the basis of the Petitioners representation dated 21.06.2021.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mrs.R.Anitha
State Government Counsel (for R1)

Mr.K.Raja Srinivas
Standing counsel (for R2 & R3)

O R D E R

(Order of the Court was delivered by N.KIRUBAKARAN, J)

The Petitioners have come before this Court seeking Writ of Mandamus directing respondents 2 & 3 to remove the lock and seal notice affixed on 08.02.2021 in the Petitioners property situated at Old No.322/2, New No.642, 643, 646, 647 and 655, Poonamallee High Road, Aminjikarai, Chennai 600 029, to enable the Petitioners to rectify and restore the said premises in conformity with the sanctioned plan and inconsonance with the present development rules 2019.

2.The contention of the Petitioners is that they are the joint owners of the property situated at Old No.322/2, New No.642, 643, 646, 647 and 655, Poonamallee High Road, Aminjikarai, Chennai 600 029 and they have acquired the same by way settlement deed dated 11.04.2019. The old superstructure was demolished and a new construction has been made after getting planning permission from Respondents 2 & 3 on 12.08.2020. Since there was some instigation from their neighbours the 3rd Respondent has issued a lock and seal notice on 27.01.2020 and the building was sealed on 08.02.2021. Against the lock and seal notice dated 27.01.2020 an Appeal has been preferred by the Petitioners under Section 80(A) of the Tamil Nadu Town and Country Planning Act before the 1st Respondent on 15.03.2021 and no order has been passed as on date. Therefore, the Petitioners have made a representation dated 21.06.2021 to Respondents 2 & 3 to de-seal their premises, to enable them to rectify the deviation and put up building inconsonance with the approval plan. Since no action has been taken, the Petitioners have come before this Court.

3.Heard Mr.L.Chandrakumar, learned counsel appearing on behalf of the Petitioner, Mrs.R.Anitha, learned State Government



Counsel appearing on behalf of the 1st Respondent and Mr.K.Raja Srinivas, learned Standing counsel appearing on behalf of Respondents 2 & 3.

4.The Petitioners have given a representation dated 21.06.2021 stating that they will rectify the deviation which is not in consonance with the approved plan and bring back the building according to the approved plan and request the authorities to de-seal the premises.

5.Taking into consideration that the Petitioners are inclined to remove the offending portion viz., the portion which has been constructed deviating the approved plan, it is appropriate to direct Respondents, especially, the 3rd Respondent to de-seal the premises within a period of two weeks and permit the Petitioners to rectify the deviation on or before 30.09.2021.

6.On 01.10.2021, the Respondents shall make inspection of the subject property and find out as to whether the portion, which has been constructed deviating the approved plan has been removed and the building is brought back in consonance with the approved plan and take decision either to again seal the premises if it is not in conformity with the approved plan or to allow the Petitioners to occupy the building if the deviation has been removed, by passing appropriate orders on the Petitioner's representation dated 21.06.2021.

7.With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

sai

To

1. The Secretary to Government,
The State of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George,
Chennai 600 009.



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2. The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai 600 003.

3. The Executive Engineer,
Zone - VIII,
Greater Chennai Corporation,
2nd Cross Street (East)
Pullah Avenue, Shenoy Nagar,
Chennai 600 030.

+1 CC to Mr.L. ChandraKumar, Advocate, Sr 30129.

+1 CC to M/s.K. Raja Shrinivas, Advocate, 30610.

W.P.No.13559 of 2021

AK(CO)
LS(02/08/2021)