

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2015

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.19720 of 2015

and M.P.No.1 of 2015

S.Jayarama Pandian

[Petitioner]

Vs

- 1 The Principal Secretary cum
Commissioner Corporation of Chennai-Zone 5
Ripon Building Chennai-600 003
- 2 The Executive Engineer
(Enforcement RDC(N) Corporation of Chennai
Ripon Building Chennai-600 003
- 3 J.Rathina Singh [Respondents]

This Writ Petition under Article 226 of the Constitution of India for the issuance of a Writ of certiorari calling for the records pertaining to the notice issued U/s. 258 of Chennai Municipal Corporation Act IV of 1919 dated 9.6.2015 on the file of the 1st respondent herein and quash the same.

For petitioner Mr.Chidambaram

For Respondents Mr.P.V.Selvakumar, (R1&2)

सत्यमेव जयते
O R D E R

Heard Mr.M.Chidambaram, learned counsel for the petitioner and Mr.P.V.Selvakumar, learned Standing Counsel, who took notice for for R1 & R2 and with their consent, the main writ petition is taken up for disposal.

2. This writ petition has been filed by S.Jayarama Pandian, S/o Late N.Subbiah Nadar, challenging the impugned notice of the Principal Secretary cum Commissioner, Corporation of Chennai-Zone 5, 1st respondent dated 09.06.2015, in and by which, exercising his power under Section 258 of the Chennai City Municipal Corporation Act IV of 1919, informed the petitioner to fence off, take down, secure or repair the building in question so as to prevent any danger there

from within a period of 7 days from the date of receipt of such notice, failing which, it was informed that he will fence off, take down, secure or repair such (structure) or fence off a part of any structure or take such temporary measures as he thinks fit to prevent danger and the cost of doing so will be recovered from the owner or occupier in the manner provided in Section 387 of MCMC Act IV of 1919.

3.1 Learned counsel for the petitioner would submit that the petitioner, having become as one of the tenants of K.M.Balasubramaniam on 15.11.1990, has been in possession of the property in question. According to him, the petitioner, in the beginning, as the shop was in dilapidated condition, on the request made by the said K.M.Balasubramaniam, the original owner, has put 22 grids for supporting the Wall and constructed the Shop in a proper manner, and also by spending huge money, he developed the shop. After the death of the said K.M.Balasubramaniam, his wife Mrs.Valliammal failed and neglected to receive the rent from the petitioner inspite of his request and tender. Therefore, according to the learned counsel, the petitioner, filed R.C.O.P.No.375 of 2008 before the X Small Causes Court under Section 8(5) of the Tamil Nadu Building (Lease and Rent Control) Act (hereinafter referred to as "the Act"). In the said pending R.C.O.P., Mrs.Valliammal had filed a counter, disclosing the fact that the said building in question was sold to one J.Ratna Singh, 3rd respondent herein on 21.11.2007. In the meanwhile, one G.Revathi, W/o K.B.Saravanan, relative of K.M.Balasubramaniam, claimed rent from the petitioner and asked not to make any payment to the 3rd respondent. Subsequently, the said Revathy and the 3rd respondent have entered into a compromise. Later on, the 3rd respondent has filed R.C.O.P.No.243 of 2012 for fixation of fair rent under Section 4 of the Act, which was allowed on 11.02.2011. Aggrieved over the same, the petitioner preferred R.C.A. No.157/2011, which was dismissed by order dated 4.7.2013. Aggrieved over the adverse order passed in the said R.C.A., the petitioner has also preferred C.R.P.No.3034 of 2013 before this Court and the same is also pending. In the meanwhile, the 3rd respondent has filed another eviction proceedings under Section 14(1)(d) of the Act and the petitioner has also received the notice.

3.2. According to the learned counsel for the petitioner, when two proceedings are pending as against the petitioner with regard to the building in question, colluding with the 3rd respondent, the present impugned notice has been issued by the Corporation, directing the petitioner to fence off, take down, secure or repair the building in question as to prevent any danger there from within a period of 7 days from the date of receipt of such notice. As the Corporation has issued the notice in connivance with the 3rd respondent to make the pending RCOP proceeding become infructuous, the impugned order is liable to be interfered with.

4. But, this Court finds no basis whatsoever to accept the contentions put forth by the learned counsel for the petitioner. A reading of the impugned notice dated 09.06.2015 clearly shows that the petitioner has been required to fence off, take down, secure or repair the building in question so as to prevent any danger there from within a period of 7 days from the date of receipt of such notice, failing which, the respondent mentioned that they would be undertaking the entire exercise and the cost for doing so would be recovered from the owner or occupier in the manner provided in Section 387 of MCMC Act IV of 1919. Therefore, when the respondent has come forward to issue notice asking the petitioner or the owner of the building to fence off, take down, secure or repair the aforementioned building in question so as to prevent any danger there from to the public, this Court is not inclined to interfere with the impugned order.

5. In view of the above, the writ petition fails and the same is dismissed. No costs. Connected miscellaneous petition is also dismissed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

- 1 The Principal Secretary cum
Commissioner Corporation of Chennai-Zone 5
Ripon Building Chennai-600 003
- 2 The Executive Engineer
(Enforcement RDC(N) Corporation of Chennai
Ripon Building Chennai-600 003

+1cc to Mr.P.V.Selvakumar, Advocate sr.33425
+1cc to M/s.M.Chidambaram, Advocate sr.33436

W.P.No.19720 of 2015

rsi[co]
srg 21.08.2015