

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.21042 of 2015

And

M.P.No.1 of 2015

Mrs.T.Samundeeswari

...Petitioner

Vs.

- 1 The Commissioner
Corporation of Chennai Ripon Buildings
Chennai-600 003.
- 2 Zonal Officer
Zone V Corporation of Chennai No.62/59
Basin Bridge Road Chennai-600 001.
- 3 Executive Engineer
Zone V Corporation of Chennai No.62/59
Basin Bridge Road Chennai-600 001.
- 4 Assistant Executive Engineer
Division No.13 Corporation of Chennai No.
62/59 Basin Bridge Road Chennai-600 001.
- 5 Assistant Engineer
Division No.57 Corporation of Chennai No.
62/59 Basin Bridge Road Chennai-600 001.
- 6 Mr.Moinudeen Sheriff

...Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari to call the records and quash the order dated 06.07.2015 passed by the 2nd respondent under section 258 of C.C.M.C. Act in respect of the building situate in Door No.36 Godown Street, George Town, Chennai-600 001.

For Petitioner : Mr.T.Velumani
For Respondents : Mr.P.V.Selvakumar for R1 to R5

ORDER

By consent, the writ petition is taken up for final disposal. Mr.P.V.Selvakumar, learned counsel takes notice for the respondents 1 to 5.

2.This writ petition is directed against the notice issued by the Corporation of Chennai, Zonal Office - V, Works Department under Section 258 of the Chennai City Municipal Corporation Act IV of 1919 in and by which the petitioner was informed to de-occupy the premises in question with immediate effect to secure herself, passerby and neighbours to prevent from any danger therefrom within 7 days from the date of receipt of the notice. In default, the notice mentioned that the Corporation will de-occupy the petitioner's occupancy, lock and seal the same and demolish the premises solely at her risk and costs on the sole ground that without giving any notice whatsoever, the respondent ought not to have exercised its power under Section 258 of the Chennai City Municipal Corporation Act IV of 1919 for the alleged offence.

3.Adding further, the learned counsel appearing for the petitioner would submit that the sixth respondent has also filed a petition in R.C.O.P.No.1820 of 2009 before the XVI Judge, Court of Small Causes at Chennai for eviction of the petitioner and other tenants and during the pendency of the same at part heard stage, at the instance of the sixth respondent, the Corporation has come forward to issue the demolition notice.

4.This Court also is prima facie satisfied with the contention that no prior notice is issued to the petitioner. When this Court is not able to see at this stage the nature of the building, whether it is in a dilapidated condition or usable condition or inhabitable condition, the petitioner is directed to treat the notice as the notice calling for explanation. It is made clear that the petitioner shall submit her explanation to the respondent within a period of three weeks from the date of receipt of a copy of this order. It is made clear that on receipt of the explanation or objection, if any, from the petitioner, it is for the official respondents to pass appropriate orders. Till the disposal of the petitioner's objection if any, the respondents are directed to maintain status-quo. In default of the petitioner giving explanation within the stipulated time, the respondents are at liberty to take action as per Section 258 of the Chennai City Municipal Corporation Act IV of 1919.

5.The writ petition is disposed of with the above observation.
No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

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+1 cc to Mr.P.V.Selvakumar Advocate sr.35472/15
+1 cc to Mrs.T.Velumani, Advocate sr.35497/15

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aa10/08/2015