

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2017

CORAM

THE HON'BLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR. JUSTICE RMT. TEEKAA RAMAN

W.P.No.7386 of 2017

M/s.Rahmath Trade Centre
Rep. by its Partner
N.M.Nainar Mohamed
Old No.32, New No.30
Buddi Sahib Street
M.K.Garden, Chennai-1.

.. Petitioner

Vs.

1 The Member Secretary
Chennai Metropolitan Development Authority
No.2, Gandhi irwin Road
Egmore, Chennai-8.

2 The Commissioner
Corporation of Chennai
Rippon Buildings
Chennai-3.

3 The Assistant Executive Engineer
Unit No.13, Zone No.V
Corporation of Chennai
61, Basin Bridge Road
Chennai-21.

4 The Executive Engineer
Zone V, Corporation of Chennai
Rippon Buildings, Chennai-3.

5 Thair Jalal

6 S.Syed Ishaque

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus calling for the records of the Demolition Order No.06946/ 2012, dated 26.7.2012 passed by respondents 2 and 3 in relation to the property bearing

Door No.27, Stringers Street, George Town, Broadway, Chennai-108 and quash the same and direct the Corporation Authorities to investigate the entire matter in relation to such Demolition Order including Plan Sanction for the property bearing Door No.27, Stringers Street, George Town, Broadway, Chennai-108.

For Petitioner : Mr.P.Subba Reddy
for Mr.N.Srinivasulu

For Respondents : Mr.K.Rajasrinivas
for 1st respondent

Mr.R.Arunmozhi
for respondents 2 to 4

ORDER

(Order of the Court was made by the Acting Chief Justice)

Mr.K.Rajasrinivas, learned counsel takes notice for the first respondent and Mr.R.Arunmozhi, learned counsel takes notice for respondents 2 to 4.

2. The petitioner has filed this writ petition seeking issuance of a writ of Certiorarified Mandamus calling for the records of the Demolition Order No.06946/2012, dated 26.7.2012 passed by respondents 2 and 3 in relation to the property bearing Door No.27, Stringers Street, George Town, Broadway, Chennai-108 and quash the same and direct the Corporation Authorities to investigate the entire matter in relation to such Demolition Order including Plan Sanction for the property bearing Door No.27, Stringers Street, George Town, Broadway, Chennai-108.

3. The petitioner is a tenant who is in occupation of the premises owned by respondents 5 and 6. He pleads that the Corporation authorities have issued demolition order without following due process of law and procedure contemplated under the Rent Control Act and also the Madras City Municipal Corporation Act. It is the plea of the petitioner that they obtained an injunction order dated 18.12.2012 in I.A.No.7432 of 2012 in O.S.No.2874 of 2012 against the owners not to demolish the building. In response to the the demolition notice dated 26.7.2016, the petitioner sent a lawyer's notice on 12.9.2016 to the respondent authorities. However, the same was not considered till date. Hence, the present writ petition for the relief stated supra.

4. On hearing the learned counsel for the parties, we are of the view that it is for respondents 2 to 4/Corporation authorities to consider the right of the petitioner, if any, as a tenant and as a lease holder, he cannot assail the power of the landlord. Moreover, the petitioner claims that he obtained an order of injunction against the owners restraining them from demolishing the building. The respondents 2 to 4/Corporation authorities cannot be expected to know about the litigations pending between the tenants and the landlords. The petitioner ought to have impleaded the Corporation as a party respondent in the civil proceedings. Having failed to do so, the petitioner cannot now claim that respondents 2 to 4/Corporation authorities should not proceed against them. That apart, it was brought to our notice that the injunction order was obtained by the petitioner only after the demolition order was passed by the Corporation authorities.

5. Under such circumstances, we direct respondents 2 to 4/Corporation authorities to consider the representation of the petitioner dated 12.9.2016 and pass appropriate orders in accordance with law.

The writ petition is disposed of accordingly. No costs. Consequently, W.M.P.Nos.8041 and 8042 of 2017 are closed.

-s/d-
Assistant Registrar (CS-VIII)

True Copy

Sub-Assistant Registrar

To:

- 1 The Member Secretary
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4 The Executive Engineer
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Rippon Buildings, Chennai-3.

+3 Ccs to Mr. N. Srinivasan, Advocate sr 19024
+1 Cc to Mr. K. Rajasrinivas, Advocate sr 18788
+1 CC to Mr. R. Arunmozhi, Advocate sr 18838

W.P.No.7386 of 2017

GJ(CO)
sp/11/4



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