

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2017

CORAM :

The Hon'ble Ms.INDIRA BANERJEE, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE M.SUNDAR

W.P. No.8677 of 2017
and W.M.P.No.9510 of 2017

Jeeva

... Petitioner

-vs-

- 1.The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai 600 003.
- 2.Executive Engineer
Zone-XVIII, Greater Chennai
Corporation, Adayar,
Chennai 600 020.
- 3.Assistant Executive Engineer,
Unit-40, Greater Chennai
Corporation, Adayar,
Chennai 600 020.
- 4.Assistant Engineer,
Division No.173, Greater Chennai
Corporation, Adayar,
Chennai 600 020.
- 5.The Tamilnadu Slum Clearance Board,
Rep. By its Chairman cum Managing Director,
No.5, Kamarajar Salai, Chepauk,
Chennai 600 005.
(R-5 suo motu impleaded as per order
dt.11.04.2017 in WP) 8677/17 by CJ & MSJ

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari to call for the entire records relating to the impugned notice dated 28.02.2017 made in notice No.451/2015 of the 2nd respondent and quash the same.

For Petitioner : Mr.V.Sivalinkam
For Respondents : Mr.V.C.Selvasekaran
Standing Counsel for RR 1 to 4

O R D E R

(Order of the Court was made by M.Sundar, J.)

This writ petition has been filed, calling in question a de-occupation notice issued under Sub-Section 2(A) of Section 56 and Section 57 read with Section 85 of the Town and Country Planning Act, 1971 (hereinafter referred to as 'the said Act' for the sake of brevity).

2.It is the case of the writ petitioner that the entire extent of land is only 420 sq.ft. (80 sq. meters) and therefore, does not need plan sanction or approval.

3.Mr.V.C.Selvasekaran, learned Standing Counsel for Chennai Corporation, accepts notice on behalf of the first four respondents / Chennai Corporation and Mr.V.Prabhu, learned Standing Counsel for Tamil Nadu Slum Clearance Board, who is present in Court, accepts notice for the impleaded fifth respondent.

4.Learned standing counsel for the Corporation submits that in cases of this nature, the person concerned should apply for an exemption.

5.At this juncture, our attention is drawn to the averment in paragraph 4 of the affidavit of the writ petitioner that the construction stands on Government land. It is the further say of the writ petitioner that as occupants, they had sought for issuance of patta. However, at the bar, it is submitted that by Government land, the writ petitioner would mean that it is land that belongs to Tamil Nadu Slum Clearance Board. We express no opinion on this. However, owing to the same, we deem it necessary to implead the Tamil Nadu Slum Clearance Board, Rep. By its Chairman cum Managing Director, No.5, Kamarajar Salai, Chepauk, Chennai 600 005. Ordered accordingly. Memo of parties be suitably amended.

6.In view of the submission of the learned standing counsel for the Corporation, the writ petitioner may submit an application seeking exemption, within one (1) week and a decision on whether or not to grant exemption will be taken by the second respondent before us, namely, The Executive Engineer, Zone XVIII.

7. Though obvious, we make it clear that the decision regarding exemption shall be taken, after causing an inspection to be made. If the petitioner is entitled to exemption of the same, his request shall be acceded to. If not so, it is open to the respondents to proceed against the writ petitioner's construction in accordance with law. This exercise shall be completed within a period of six (6) weeks from the date of receipt of a copy of this order.

8. With the above directions, this writ petition is disposed of. No costs. Consequently, W.M.P.No.9509 of 2017 is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

sra

To

1. The Commissioner,
Greater Chennai Corporation,
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5.The Chairman cum Managing Director,
Tamilnadu Slum Clearance Board,
No.5, Kamarajar Salai, Chepauk,
Chennai 600 005.

+lcc to Mr.V.Sivakumar, Advocate Sr.21767

W.P.No.8677 of 2017

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srg 24/04/2017



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