

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P.No.8904 of 2017

P.Jagadeesan

... Petitioner

Vs

1. The Executive Engineer,
Zone - VII (Ambattur),
Corporation of Chennai,
Regional Office- Central,
Ambattur, Chennai - 53.
2. The Assistant Engineer,
Divisional Office - 84,
Corporation of Chennai,
TNHB, 49th Street, VR Nagar,
Korattur Bus Stand (Play Ground).
Chennai - 50
3. The Assistant Engineer,
Ambattur Industrial Estate/Mangalapuram,
Tamil Nadu Electricity Generation
and Distribution Circle,
Ambattur, Chennai 600 098.
4. M/s.Shree Balaji Castings P Ltd.,
Rep. By its Director Mr.Stalin,
Door No.226, North Phase,
Sidco Industrial Estate,
Telephone Exchange, Pattaraivakkam,
Ambattur, Chennai 636 098.
(R4 & R5 impleaded as per order dated
05.09.2017 in W.M.P.Nos.12153 & 10767 of 2017
in W.P.No.8904 of 2017)
5. M/s.Kartik Laboratories,
Rep. By its Managing Partner,
Mr.M.Chettiappan,
No.2B, 4th Street, TNGO Colony,
Nanganallur, Chennai 600 061

... Respondents

Prayer:- Writ Petition filed under Article 226 of the
Constitution of India praying for issuance of a Writ of
Mandamus directing the 3rd respondent to disconnect the

electricity service connection temporarily which is provided to the premises of the petitioner herein comprised in Door No.226, North Phase, Industrial Estate, Ambattur enable to demolish the unauthorised construction and to comply with the direction of the respondents 1 and 2 vide their notice dated 22.03.2017 in Notice No.Z07/TPENF/68/2017.

For Petitioner : Mr.R.Nalliyappan

For R1 & R2 : Mr.R.Arunmozhi

For R3 : Mr.S.K.Rameshuwar

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

By consent, this writ petition is taken up for final disposal.

2. The petitioner in the affidavit filed in support of this writ petition, would aver among other things that the property comprised in Work Shed No.226, North Phase, Industrial Estate, Ambattur, Chennai -58 was originally allotted to one Ananthanarayan, who was the proprietor of M/s.Karthik Laboratories (newly impleaded respondent). Subsequently, it was changed as a partnership firm with the approval of Tamil Nadu Small Industries Development Corporation (SIDCO) and it is a partnership firm between Ananthanarayan and V.Palaniappan, who is the father of the petitioner herein. It is further averred by the petitioner that with the permission of SIDCO, the above property to an extent of 2500 Sq.ft with open land, were leased out in favour of M/s.Sri Balaji Casting P Ltd., (newly impleaded respondent) for a period of five years from 22.08.1999 and even after expiry of the lease period, he did not vacate the premises.

3. The petitioner would further state that after the demise of his father Palaniappan, he was allotted the said property and it appears that the respondents 1 and 2 have inspected the premises and found out unauthorized construction and also issued lock and seal and demolition notice dated 28.11.2016, to the owner of the said premises. The petitioner, in response to the said notice, submitted a representation dated 09.02.2017, praying for a month's time to take endeavor and also requested to remove the articles of M/s.Sri Balaji Castings P Ltd and also disconnected the electricity connection given to them.

4. The learned counsel appearing for the petitioner has further stated that yet another representation dated 09.03.2017 was submitted to the 2nd respondent praying for disconnection of Electricity connection for a further period of 6 months in Electricity Connection No.406/037-001-64 and

after demolition of the superstructure, prayed for reconnection of the electricity supply. The petitioner would further aver that thereafter the 1st respondent has issued the de-occupation notice dated 22.03.2017 and the petitioner submitted a reply dated 24.03.2017 and stated that since the request for disconnection of electricity supply is pending, they should be responsible for all costs. The learned counsel appearing for the petitioner would further submit that despite the repeated request made by the petitioner to disconnect the electricity supply to the premises in question, the same has not been done by the concerned officials and therefore, he is constrained to approach this Court by filing this writ petition.

5. The learned counsel appearing for the respondents 1 and 2 has drawn the attention of this Court to the Counter affidavit and would submit that the construction put up by the owner of the building is in deviation of the approval plan and the ground floor + 1st floor has also been constructed unauthorizedly and therefore, action was taken under the Tamil Nadu Town and Country Planning Act, 1971.

6. The learned counsel appearing for the private respondents would submit that there is a dispute between them, and the sole aim of the petitioner is to evict M/s.Balaji Castings P Ltd with malafide intention and prays for dismissal of this writ petition.

7. This Court carefully considered the rival submissions and also perused the materials placed before it.

8. It is relevant to extract the deviated / unauthorised construction put up in the premises bearing door No.226, North Phase, Sidco Estate, Telephone Exchange, Pattaravakkam, Chennai - 98 :-

Sl.No.	Description	As per plan	As per site	Deviated / Unauthorised portion
1.	Ground Floor	249.71 Sq.m	711.26 Sq.m	711.26 Sq.m
2.	First Floor	-	29.26 Sq.m	29.26 Sq.m

8. Admittedly, the petitioner did not make any challenge to the locking and sealing and demolition notice dated 28.11.2016 and de-occupation notice dated 22.03.2017 and the endeavor appears to be to carryout the demolition and disconnection of the electricity supply. Admittedly, M/s.Balaji Castings P Ltd., is in occupation of the premises and it also the submission of the learned counsel appearing for the petitioner that civil suits are also pending. That apart, in pursuant to the challenge made in WP.No.6319 of 2017

vide order dated 15.03.2012, invoke under section 49 of the Tamil Nadu Town and Country Planning Act.

9. In the light of the facts and circumstances prayer sought for by the petitioner cannot be granted, as it may impede remedy if any available to the petitioner under Section 49 of The Tamil Nadu Town and Country Planning Act, 1971 and also in the light of the pending civil litigations. Therefore, the writ petition stands dismissed and it is made clear that the findings / observations made hereunder only for the disposal of the writ petition and this Court has not touched upon the merits and the contentions to be put forth by the parties in pending civil litigations as well as the pendency of the application filed under Section 49 of the Tamil Nadu Town and Country Planning Act, 1971.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

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Chennai - 50
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Ambattur Industrial Estate/Mangalapuram,
Tamil Nadu Electricity Generation
and Distribution Circle,
Ambattur, Chennai 600 098.

+1cc to Mr.R.Nalliyappan, Advocate, S.R.No.64450
+1cc to Mr.O.L.V.Ganesan, Advocate, S.R.No.64453

W.P.No.8904 of 2017

CS V

CA(09/10/2017)

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