

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2017

CORAM

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HON'BLE MR.JUSTICE SATRUGHANA PUJAHARI

W.P. Nos.23910 and 23911 of 2017
and W.M.P.Nos.25169 to 25172 of 2017

- 1.R.Lakshmanan .. Petitioner in W.P.No.23910 of 2017
2.Hafisullahkhan .. Petitioner in W.P.No.23911 of 2017

Vs

1. The Commissioner
Greater Chennai, Corporation of Chennai,
Ribbon Building, Chennai – 600 003.
2. The Assistant Engineer
A.E/Dn-33, Greater Chennai Corporation,
Ward.No.33, Zone No.3
No.1, Thattankulam Road,
Madhavaram High Road,
Madhavaram, Chennai – 600 060.
3. The Assistant Executive Engineer,
Unit-8, Greater Chennai Corporation,
No.1, Thattankulam Road,
Madhavaram High Road,
Madhavaram, Chennai – 600 060.

4. The Executive Engineer,

Zone-3, Greater Chennai Corporation,
No.1, Thattankulam Road,
Madhavaram High Road,
Madhavaram, Chennai – 600 060.

5. Smt. Jayashree

.. Respondents in both W.Ps

Common Prayer:- Petitions filed Under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the entire records of the respondents 2 to 4 pertaining to the impugned order in notice No. Dn/33/2017 dated 25.07.2017 and quash the said order in so far as the writ petitioner is concerned.

For Petitioner in both W.Ps. : Mr. P.Jagadeesan
For R1 to R4 in both W.Ps : Mr.V.C.Selvasekaran
For R5 in both W.Ps. : Mr. J.Paulraj

COMMON ORDER

(Order of the court was made by M.Sathyanarayanan, J.,)

By consent these writ petitions are taken up for final disposal.

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2. The petitioners claim to be the tenants in respect of the premises bearing door No.47/64, MRH road, Moolakadai, Madhavaram, Chennai and are running automobile spare parts shop and Cycle spare parts shop in the respective portions of the said premises and it is situated in the ground floor which is measured about 315 Sq.ft., and 364 respectively. The petitioners claim that they had paid an advance of

Rs.3,00,000/- each, in favour of the landlady /5th respondent and also monthly rent of Rs.8,000/- and Rs.8500/- respectively. According to the learned counsel appearing for the petitioners, the monthly rent is being paid to the landlord/5th respondent without any default. The petitioners would further aver that the main building was constructed about 50 years back and the 5th respondent/landlady is in possession and enjoyment of 1800 Sq.ft., which consists of ground + two floors.

3. The petitioners would further state that attempts were being made by the 5th respondent/landlady to evict the petitioners. The learned counsel appearing for the petitioners on instructions would submit that since the 5th respondent had refused to receive the rent in order to evict the petitioners under (Tamil Nadu Lease and Rent Control Act, 1960) by depositing the rent amount to the credit of the said Original Petitions. The petitioners would further aver that dispossessing them without referring to due process of law, filed O.S.No.30 of 2017 & O.S.No.31 of 2017 filed before the District Munsif Court, Thiruvottiyur, praying for permanent injunction restraining the 5th respondent from evicting/dispossessing the petitioners except under due process of law and the said suits are also still pending.

4. The petitioners would further aver that however to their shock and surprise, they were issued with locking and sealing notice dated 25.07.2017 under section 56 & 57 r/w section 85 of the Tamil Nadu Town and Country Planning Act, 1971, by the 4th respondent and challenging the legality the same, came forward to file these writ petitions.

5. Mr.P.Jagadeesan, learned counsel appearing for the petitioners would submit that the petitioners are tenants in respect of the portions of the premises in their occupation which are being used for commercial purpose, for rent and since attempts were being made to dispossess the petitioners, they filed suits in O.S.No.30 and 31 of 2017 on the file of the District Munsif Court, Tiruvottiyur and those suits are pending and interim orders are in operation and would further aver that the landlady in order to dispose the petitioners had put up unauthorized construction which necessitated action on the part of the 4th respondent and would further aver that they may be permitted to file appeals under section 80 A of the Tamil Nadu Town and Country Planning Act, 1971 and till such time, the corporation officials may be directed to defer further decision in terms of the impugned notices.

6. Per contra, Mr.V.C.Selvasekaran, learned standing counsel appearing for the respondents 1 to 4 would submit that in so far as the averments made in paragraph No.5 of the affidavit as regards the entertainment of WP No.15658 of 2017 filed by Mr.Suresh Chand Chodia is concerned, he is the owner of the premises and as such this Court while disposing of the writ petition on 23.06.2017 has granted him liberty to avail remedy under Section 80A of the Tamil Nadu Town and Country Planning Act, 1971 and if the petitioners are so advised, they may avail the said remedy and a direction may be given to the authority concerned to entertain the said appeals, if the papers or otherwise in order and to dispose of the same and prays for appropriate orders.

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

8. Though, the petitioners pray for a larger relief, in the light of the above facts and circumstances without going into the merits of the claim projected by the petitioners in these writ petitions, observes that if the petitioners are so advised and if it is open to them under law, they are at liberty to avail the appeal remedy under Section 80 A of the

Tamil Nadu Town and Country Planning Act, 1971 along with the petition for stay under 80A[iii] of the Tamil Nadu Town and Country Planning Act, 1971 within a period of two weeks from the date of receipt of a copy of this order by enclosing the copy of this order as well as the relevant and authenticated document to the Secretary, Housing and Urban Development Department, Secretariat, Chennai – 600 009 and the said official, upon receipt of the same may entertain the revisions/appeals if it is permissible under law, and deal with the same in accordance with law. The said official is at liberty to take a petition for stay, if the main revisions/appeals are maintainable and give a disposal within a further period of two weeks from the date of entertainment of the special revision / appeal and till such time, the officials Corporation of Chennai shall defer further decision in terms of the impugned notices dated 25.07.2017.

9. Accordingly, the Writ petitions stands disposed of. No costs. Consequently, the connected WMPs are closed.

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(MSNJ) (SPIJ)
04.12.2017

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To

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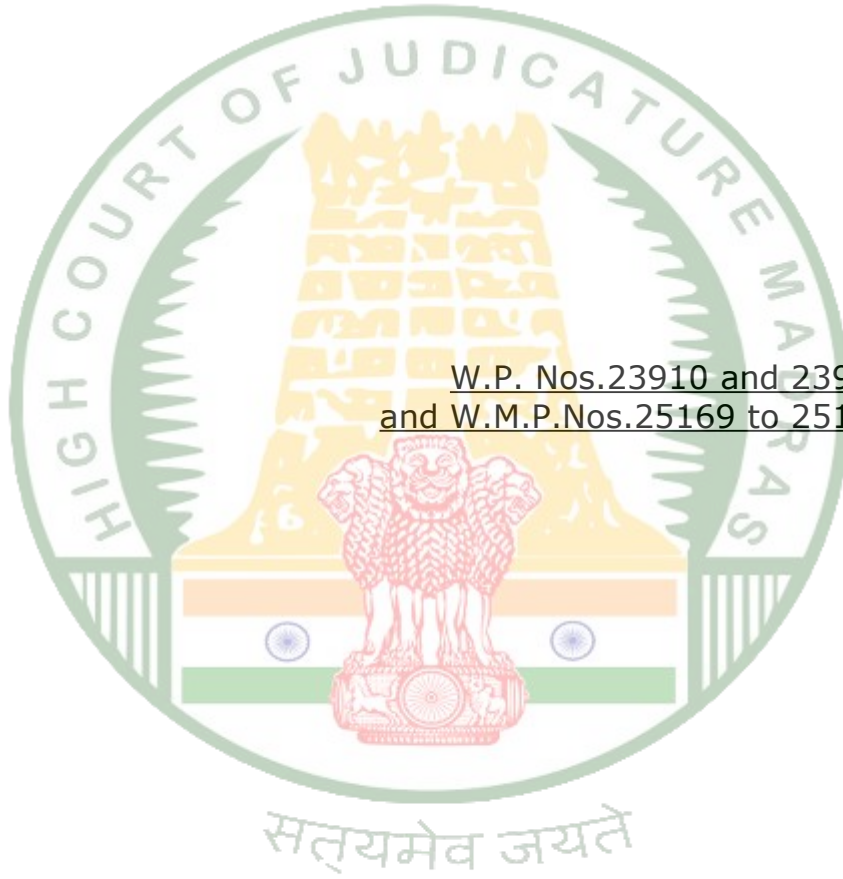
The seal of the Tamil Nadu State Judicial Academy is a circular emblem. It features a central illustration of the Lion Capital of Ashoka, which is a symbol of justice and law. The capital is set against a background of the Indian national flag's saffron, white, and green horizontal stripes. The words 'TAMIL NADU STATE JUDICIAL ACADEMY' are inscribed in a circular border around the central image. Below the seal, the motto 'सत्यमेव जयते' (Satyameva Jayate) is written in Devanagari script.

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