

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.7236 of 2018
and
W.M.P.Nos.8992 and 8993 of 2018

Jothi @ Jothilingam

.. Petitioner

Vs.

1. The Director,
Town and Country Planning Authority,
Chengalvarayan Building, 4th Floor,
No.807, Anna Salai,
Chennai-600 002.
2. The Commissioner,
Greater Corporation of Chennai,
Chennai-600 003.
3. The Executive Engineer,
Enforcement Zone 10,
Greater Chennai Corporation,
No.117, N.S.K.Salai,
Kodambakkam,
Chennai-600 024.

4. N.Rathnakumar

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records of the impugned order dated 19.10.2016, served on 16.11.2016, issued by the third respondent herein and quash the same as null and void and against the principles of natural justice.

For petitioner : Mr.E.Sivanandan

For respondents : Mr.R.Udayakumar, Addl.G.P. for R-1
Mr.K.Soundararajan for RR-2 & 3

ORDER

(The Order of the Court was made by S.Vaidyanathan, J)

The petitioner has come forward with the above Writ Petition praying for issuance of a Writ of Certiorari to call for the records of the impugned order dated 19.10.2016, served on 16.11.2016, issued by the third respondent herein and quash the same as null and void and against the principles of natural justice.

2. According to the petitioner, he is a tenant under the fourth respondent/landlord and is in occupation of the premises in Shop Nos.11, 13 and 15 of 1st Street, K.K.Nagar, Chennai-600 078 from 1981. It is seen that as against the impugned de-occupation notice, dated 19.10.2016, the petitioner has preferred an appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971.

3. It is brought to the attention of this Court by the learned Additional Government Pleader appearing for the first respondent and the learned counsel appearing for the respondents 2 and 3 that earlier, this petitioner filed a Writ Petition in W.P.No.42358 of 2016 before this Court and a Division Bench of this Court, by order dated 05.12.2016, has passed the following order:

"In view of the averments in para 5 of the report filed by the second respondent in W.P.No.41410 of 2016, the respondents will proceed in accordance with the same and conclude the matter within a period of three (3) months from today.

2. Writ petition is, accordingly, disposed of. No costs. Consequently, W.M.P.No.36362 of 2016 stands closed."

4. The notice with regard to the violation of the plan will be given only to the landlord/owner of the property and since the petitioner being a tenant, the impugned de-occupation notice has been issued to him. We are of the view that if there is any construction in violation of the sanctioned plan, no one, much less the tenant, is entitled to stay in the property, unless the same is rectified by the owner/landlord or regularised pursuant to the order passed by the authority under the said Act of 1971. When this Court has expressed the view that the relief sought for in the Writ Petition cannot be granted to the petitioner, learned counsel for the petitioner submitted that if three months' time is granted to the petitioner, the petitioner would vacate the premises in question and that he will file an affidavit to that effect before the Registrar General of this

Court within one week from today.

5. Taking note of such submission made by the learned counsel for the petitioner, this Writ Petition is disposed of, granting permission to the petitioner to vacate the premises in question on or before 30.06.2018. Post the Writ Petition "for reporting compliance" on 06.07.2018. We make it clear that if the said affidavit is not filed before the Registrar General of this Court as stated supra, on or before 09.04.2018, the relief granted in this Writ Petition cannot be availed of by the petitioner. No costs. Consequently, W.M.Ps. are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

CS

To

1. The Director,
Town and Country Planning Authority,
Chengalvarayan Building, 4th Floor,
No.807, Anna Salai,
Chennai-600 002.
2. The Commissioner,
Greater Corporation of Chennai,
Chennai-600 003.
3. The Executive Engineer,
Enforcement Zone 10,
Greater Chennai Corporation,
No.117, N.S.K.Salai,
Kodambakkam,
Chennai-600 024.

+1cc to Mr.E.Sivanandan, Advocate, S.R.No.24164

+1cc to Mr.K.Soundararajan, Advocate, S.R.No.24673

+1cc to the Government Pleader, S.R.No.24290

W.P.No.7236 of 2018

GP(CO)
RRK(03/04/2018)