

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2018

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.7434 of 2018 and
W.M.P.Nos.9233 & 20574 of 2018

N.S.Muthu

.. Petitioner

vs.

- 1 The Executive Engineer
Greater Chennai Corporation Zone X
No.117, N.S.K.Salai
Kodambakkam
Chennai-600 024.
- 2 The Assistant Engineer
O/o. Assistant Engineer
Corporation Division No.138
Greater Chennai Corporation
Jaffer Khanpet
Chennai-600 083.
- 3 The Executive Engineer
TANGEDCO (TNEB)
Kodambakkam, Chennai
(R3-Suo Motu Impleaded as per order
dt. 28.03.2018 in W.P.7434/18)
- 4 The State of Tamil Nadu
Rep by its Secretary to Government
Urban and Housing Development Department
Secretariat
Chennai-600 009.
(R4 impleaded vide court order dt. 03.12.2018
made in WMP 37201/2018 in W.P.7434/18)

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari Mandamus, calling for the records relating to the order dated 13.03.2018 made in notice No.ZONE-10/ TPENF/ 1705/2018 passed by the 1st

respondent, quash the same and consequently forbear the respondents from any manner interfering with the petitioner's possession and enjoyment of the property bearing Door No.5, Govindasamy Street, M.G.R. Nagar , K.K.Nagar, Chennai-600 078, comprised in S.Nos.392, 939 and 934 situated in Plot No.2875 an extent of 141.5 sq.mt. (1521 Sq.ft).

For Petitioner : Mr.G.Ethirajulu
For Respondents : Mr.V.C.Selvasekaran
Standing Counsel - for R1 & R2

Mr.S.K.Rameshwar
Standing Counsel - for R3

Mr.V.Jayaprakash Narayanan
Govt. Pleader (i/c) - for R4

O R D E R
(Order of the Court made by M.DURAI SWAMY, J.)

The petitioner has filed the above Writ Petition to issue a Writ of Certiorarified Mandamus to call for the records relating to the order dated 13.03.2018, passed by the 1st respondent, to quash the same and consequently forbear the respondents from in any manner interfering with the petitioner's possession and enjoyment of the property bearing Door No.5, Govindasamy Street, M.G.R. Nagar, K.K.Nagar, Chennai-600 078, comprised in S.Nos.392, 939 and 934 situated in Plot No.2875, measuring an extent of 1521 Sq.ft.

2. The petitioner has challenged the De-Occupation Notice issued under Section 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, in this Writ Petition.

3. When the matter is taken up for hearing, learned counsel on either side submitted that the petitioner has filed an Appeal under section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, challenging the the De-Occupation Notice dated 13.03.2018, before the 4th respondent and the same is pending.

4. When the petitioner has already filed an appeal as against the impugned order dated 13.03.2018, we are not inclined to entertain the present Writ Petition.

5. The learned counsel appearing for the petitioner submitted that the 4th respondent may be directed to dispose of the appeal, expeditiously.

6. The learned Government Pleader (i/c), appearing for the 4th respondent submitted that the 4th respondent may be directed to dispose of the appeal in six weeks' time.

7. In view of the submissions made by the learned counsel on either side, we dispose of the Writ Petition with a direction to the 4th respondent to dispose of the appeal preferred by the petitioner as against the impugned order dated 13.03.2018, on merits and in accordance with law, within a period of six weeks, from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed.

s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

Rj
To

- 1 The Executive Engineer
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- 3 The Executive Engineer
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Kodambakkam, Chennai
- 4 The Secretary to Government
Urban and Housing Development Department
Secretariat
Chennai-600 009.

+1 CC to The Govt. Pleader sr 85424.
+1 CC to Mr.G.Ethirajulu, Advocate sr 85017.

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SP(24/01/2019)