

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.04.2018

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WP.No.4683 of 2018 and WMP.5785 of 2018

J.Tulsi Ram

.. Petitioner

Versus

- 1.The Commissioner,
Chennai Corporation,
Rippon Building,
Chennai.
 2. The Assistant Executive Engineer,
Zone VI, Greater Chennai Corporation,
No.5, Anderson Road,
Ayanavaram Road,
Chennai 600 023.
 3. The Member Secretary,
Chennai Metropolitan Development Authority,
Chennai 600 003.
 4. Mr.Shantilal M.Jain,
S/o.Late Sri Megrajji,
No.43, Audiappa Naicken Street,
Sowcarpet, Chennai - 79.
 5. Mr.Lalith Kumar S Jain,
S/o.Sri Shantilal M Jain,
No.43, Audiappa Naicken Street,
Sowcarpet, Chennai - 79
- .. Respondents

PRAYER:- Writ petition filed under Article 226 of the Constitution of India prays to issue a Writ of Mandamus directing the respondents 1 to 3 to consider the petitioner's representation letter dated 12.02.2018 and further directing the respondents to break open the seal of the petitioner's shop in Door No.1, Chokkavel Subramaniya Swami Koil Street, Choolai, Chennai 600 112 for taking the stocks and raw materials from the shop.

For Petitioner : Mr.S.Ramajayam
For Respondents: Mr.A.Nagarajan
for R1 and R2
Mr.C.Johnson for R3

ORDER

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

The petitioner claims to be a tenant under the respondents 4 and 5 in respect of shop in Ground Floor in Door No.1, Chokkavel Subramaniya Swami Koil Street, Choolai, Chennai - 600 112. According to the petitioner, a Lease Deed dated 04.06.2012 was executed between the petitioner and respondents 4 and 5 and he has paid a security deposit of Rs.5,00,000/- and agreed to pay a monthly rent at the rate of Rs.30,000/- per month including maintenance charge and the petitioner was running a shop for the past five years and carrying on commercial activities and he is also having a sale tax registration.

2. The petitioner would further aver that to his shock and surprise, the premises under his occupation, all of a sudden, was sealed by the officials of Corporation of Chennai on 02.02.2018 and he is keeping the stocks and other articles worth of Rs.30,00,000/- in the said sealed shop and therefore, came forward to file this writ petition to take away those articles from the shop in question.

3. The writ petition was entertained on 02.03.2018.

4. The 2nd respondent has filed the counter affidavit stating among other things that permission was accorded to put up Ground + two floors vide planning permission dated 24.12.2009, whereas three extra floors have been put up and initially challenging the locking, sealing and demolition notice dated 02.02.2011, the owner of the premises, respondents 4 and 5 filed WP.No.9805 of 2011 is still pending and obtained the order of ad-interim injunction restraining the respondents from initiating coercive action and they also approached the Tamil Nadu Housing and Urban Development Department by way of appeal. It is further stated that one Mrs.Lakshmi Jeeva has filed WP.No.30230/2013 and obtained an order on 08.11.2012 wherein, liberty was granted to the respondents 1 and 3 to take action against the respondents 4 and 5 in accordance with law, after the disposal of the appeal by the Government. Subsequently, the contempt proceeding was also initiated in CP.No.2099/2013 which was disposed of on 23.06.2014. Once again, Mrs.Lakshmi Jeeva,

filed another WP No.23141 of 2015, praying for appropriate action against the unauthorized and illegal construction put up in the suit property and obtained an order dated 28.07.2015 to remove the illegal construction and accordingly de-occupation notice was issued on 03.05.2017 and it was put to challenge and the present writ petition also came to be filed praying for removal of lock and seal for the purpose of removing the stocks. WP.No.23141/2015 also came to be disposed of by taking into consideration the undertaking given by the Executive Engineer that the de-occupation notice would be taken to its logical conclusion within two weeks and it is made clear that it is subject to any legal intradict. Mr.Prakash Chand also filed WP.No.26646/2015 and obtained an order on 26.08.2015 and it was dismissed as premature and status quo was granted for a period of two weeks, so as to enable the appellate authority to take a decision on the petition for stay. The said premises was put under lock and seal on 28.09.2015. The Government while disposing of the appeal on 06.02.2017, has granted six months time to rectify the same and since it was not rectified within a time, the premises was once again came to be locked on 13.11.2017.

5. The learned counsel appearing for petitioner would submit that the petitioner is merely interested in removing the goods and therefore appropriate permission may be granted.

6. The learned standing counsel appearing for the respondent would submit that date and time may be fixed to enable the petitioner to remove the goods stored in the shop, which is under lock and seal.

7. This Court has carefully considered the rival submission and also perused the material placed before it.

8. In the light of the limited scope of prayer sought for by the learned counsel for petitioner, the 2nd respondent is directed to remove the lock and seal of the shop in occupation of the petitioner, for the purpose of removing the stocks on 12.04.2018 between 10.30 A.M and 5 P.M and the officers shall remain present to oversee the same and thereafter, the shop in question shall be once again resealed and locked after the expiry of the time.

9. This Court has also taken note of the fact that respondents 4 and 5, though, obtained planning permission to put up ground + two floors has proceeded with further construction and unauthorizedly put up three more floors in the form of 3, 4 and 5 floors and according to the learned standing counsel for Corporation of Chennai, the entire premises is under lock and seal from 13.11.2017. This Court, taking into consideration the

above facts and circumstances, directs the 2nd respondent to proceed further, by demolishing the unauthorised /offending construction in accordance with law, subject to legal interdict, if any, within eight weeks from the date of receipt of a copy of this order.

10. With the above direction, the writ petition stands disposed of. No costs. Consequently connected miscellaneous petition is closed.

11. For filing status report, call on 26.06.2018.

Sd/-

Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

sk/rka

To

- 1.The Commissioner,
Chennai Corporation,
Rippon Building,
Chennai.
2. The Assistant Executive Engineer,
Zone VI, Greater Chennai Corporation,
No.5, Anderson Road,
Ayanavaram Road,
Chennai 600 023.
3. The Member Secretary,
Chennai Metropolitan Development Authority,
Chennai 600 003.

Copy to:The Posting Clerk
Writ Section,
High Court, Madras

+1cc to Mr.A.Nagarajan, Advocate Sr.No.25605
+1cc to Mr.C.Johnson, Advocate Sr.No.25712
+1cc to Mr.S.Ramajayam, Advocate Sr.No.4370

NMI (CO)
sm:11.4.2018

WP.No.7836/2018