

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.05.2018

CORAM

THE HONOURABLE MR. JUSTICE C.V. KARTHIKEYAN

W.P. No. 12516 of 2018
and

W.M.P.Nos.14659 to 14661 of 2018

G. Sivamoorthy

..Petitioner

Vs.

1. The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Park Town, Chennai - 600 003.
2. The Regional Deputy Commissioner
(South),
Greater Chennai Corporation,
Zonal Office No.13, Unit -39,
Division 180,
No.115, Dr. Muthulakshmi Salai,
Adyar, Chennai - 600 020.
3. The Assistant Executive Engineer,
Greater Chennai Corporation,
No.115, Dr. Muthulakshmi Salai,
Adyar, Chennai - 600 020.
4. The Zonal Officer,
Greater Chennai Corporation,
Zone-13, Adyar, Chennai - 600 020.
5. The Superintending Engineer,
CEDC/South,
No.1, K.K. Nagar, SS Complex,
Anna Main Road,
K.K. Nagar, Chennai - 600 078.
6. The Additional Divisional Engineer,
O/o Additional Divisional Engineer,
L.B. Road, Thiruvannamipur,
Chennai - 600 041.
7. Mr.A.A. Syed Sultan Arif

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the entire records pertaining to the impugned notice of the 2nd respondent dated 10.11.2017 in Notice No.07/180/2017 and quash the same and consequently forbear the respondents 1 to 4 from interfering with the peaceful possession and enjoyment of the petitioner's premises at No.119/4, L.B. Road, Thiruvanmiyur, Chennai - 600 041.

For Petitioner :: Mr.M. Sriram

For Respondents:: Mr.T.C. Gopalakrishnan

Standing counsel
for R1 to R4

Mr.S.K. Raameshuwar
Standing counsel
for R5 & R6

Mr.L.Venkatesh
for R7

O R D E R

The Regional Deputy Commissioner (South), Greater Chennai Corporation, had issued notice under Section 258 of the Chennai City Municipal Corporation Act, 1919, calling upon the petitioner to vacate the premises, since the premises, in which he is in occupation, is in dilapidated condition stage.

2. The learned counsel for the petitioner stated that under Section 258, if a notice is issued, a period of 30 days time is available for filing an appeal. However, in the impugned notice, it was stated that the petitioner should vacate the premises within a period of 7 days. This point is challenged in the present writ petition.

3. Very unfortunately for the writ petitioner, there are other tenants in the property. They had also challenged the very same notification issued by the Regional Deputy Commissioner (South), Greater Chennai Corporation in W.P.Nos.30162 to 30167 of 2017, and the learned single Judge of this Court, heard both the sides and also after taking into consideration the fact that the Engineer from the Corporation had given a report that the building is actually in a dilapidated condition. The Writ Petitions have been dismissed. The fact that the building is in a dilapidated condition and has been confirmed by the judicial order of this Court. That order has not been challenged so far.

4. The petitioner is in possession of the very same building, which is in a dilapidated condition. It is also dangerous for him to continue to do his business in the said place. Even otherwise, once the order has been passed with respect to other tenants in the the very same building, it is only just that this Court also follows the very same ratio.

5. With respect to the contention that only 7 days notice was given, it is seen that the said notice was dated 10.11.2017 and it is not just 7 days, but for nearly 7 months, the petitioner has managed to continue to do business in the said place. Therefore, he has not been prejudiced in any manner whatsoever.

6. The learned counsel for the petitioner has relied on the Division Bench judgment of this Court in Commissioner and others Vs. The State, Rep. by the Secretary to Government to Government of Tamil Nadu & others reported in 2009 (6) MLJ 417, wherein in a notice under Section 258 of the Madras City Municipal Corporation Act 1919, two days time was given. In that case, the building itself was demolished and that fact was taken note by the Division Bench. It was also mentioned that within the said period of two days, without affording time to file an appeal, the Corporation had proceeded to demolish the entire building.

7. In the present case, from November 2017 onwards, the petitioner has continued to do business in the said place. He has moved this Court only after writ petitions filed by the other tenants had been dismissed. Hence, I find no merits in the present Writ Petition.

8. Accordingly, this Writ Petition is dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar/V.O.

//True Copy//

Sub Assistant Registrar

sai/vsg

To

1. The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Park Town, Chennai - 600 003.
2. The Regional Deputy Commissioner
(South),
Greater Chennai Corporation,
Zonal Office No.13, Unit -39,
Division 180,
No.115, Dr. Muthulakshmi Salai,
Adyar, Chennai - 600 020.
3. The Assistant Executive Engineer,
Greater Chennai Corporation,
No.115, Dr. Muthulakshmi Salai,
Adyar, Chennai - 600 020.
4. The Zonal Officer,
Greater Chennai Corporation,
Zone-13, Adyar, Chennai - 600 020.
5. The Superintending Engineer,
CEDC/South,
No.1, K.K. Nagar, SS Complex,
Anna Main Road,
K.K. Nagar, Chennai - 600 078.
6. The Additional Divisional Engineer,
O/o Additional Divisional Engineer,
L.B. Road, Thiruvanmiyur,
Chennai - 600 041.

+ 2 ccs to Mr.T.C. Gopalakrishnan, Advocate Sr.33700
+ 1 cc to Mr. S.K. Rameshuwar, Advocate Sr.33805
+ 1 cc Mr. L.J. Venkatesh, Advocate Sr.33706

W.P. No. 12516 of 2018

NRL(CO)
EU(18/05/2018)