

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.06.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

WP.No.13387/2018 & WMP.No.15778/2018

C.Arjunan

Versus

Petitioner

- 1.The Commissioner
Greater Chennai Corporation
Ripon Buildings, Chennai-3.
- 2.The Assistant Commissioner
[Zone-X], Greater Chennai Corporation
Zonal Office-X, No.117, NSK Salai
Kodambakkam, Chennai 600 024.
- 3.The Executive Engineer [Zone - X]
Greater Chennai Corporation
Zonal Office-X, No.117, NSK Salai
Kodambakkam, Chennai 600 024.
- 4.The Assistant Executive Engineer [unit 29]
Greater Chennai Corporation
Zonal Office-X, No.117, NSK Salai
Kodambakkam, Chennai 600 024.
- 5.The Assistant Engineer [Division 127]
No.1, Iyyappa Nagar Main Road
Koyambedu, Chennai-107.

Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records pertaining to the notice dated 28.05.2018 issued by the 2nd respondent vide No.Ma.A.10 Na.Ka.1466/2018 for eviction of the petitioner's house property and quash the same.

For Petitioner : Mr.A.S.Balaji
For R1 to R5 : Mr.K.Soundararajan

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.K.Soundararajan, learned Standing counsel accepts notice on behalf of the respondents.

2 The petitioner, on an earlier occasion, had approached this Court by filing WP.No.3138/2018, praying for issuance of a writ of certiorari to call for the records pertaining to the Notice dated 07.02.2018 issued by the respondents 2 to 5 herein u/s.220 read with 222 of the Chennai City Municipal Corporation Act, 1919, for evicting the petitioner from the house property bearing Door No.6, Natesan Nagar [West], Second Main Road, Virugambakkam, Chennai-19. This Court had disposed of the said writ petition on 03.04.2018 with certain directions.

3 It is relevant to extract paragraphs No.7, 8 and 9 of the said order:-

'7 In the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, this Court directs the respondents 2 to 5 to treat the impugned notice dated 07.02.2018 issued under section 220 R/w 222 of the Chennai City Municipal Corporation Act, 1919, as show cause notice for which the petitioner is at liberty to submit his response/reply by enclosing relevant and authenticated documents within a period of four weeks from the date of receipt of copy of this order and upon, receipt of the same, the Zonal Officer, Zone -10, Greater Chennai Corporation, No.117, NSK Salai, Kodambakkam, Chennai - 24, after giving an opportunity of personal hearing to the petitioner, shall consider and dispose of the said representation/response within a further period of four weeks thereafter and communicate the decision taken to the petitioner and till such time, shall defer further decision in terms of the impugned notice dated 07.02.2018.

8 It is also made clear that till the disposal of the representation, to be submitted, by the Zonal Officer, Zone -10, Greater Chennai Corporation, No.117, NSK Salai, Kodambakkam, Chennai - 24 the petitioner shall not create any third party right in respect of the site/superstructure in question and shall not alter the physical features also.

9 The writ petition stand disposed of with the above direction. No costs. Consequently connected miscellaneous petition is also closed.

4 The learned counsel for the petitioner has invited the attention of this Court to the impugned communication dated 28.05.2018 sent by the 2nd respondent and would submit that the said communication refers to the petitioner's representation dated 24.05.2018 as Reference No.8 and no personal opportunity whatsoever, has been afforded to the petitioner, as directed by this Court as per the earlier order dated 03.04.2018 made in WP.No.3138/2018 and hence, prays for interference.

5 Per contra, Mr.K.Soundararajan, learned Standing Counsel appearing for the respondents would submit that despite very many communications sent to the petitioner calling upon him to appear for personal enquiry, he did not appear and taking into consideration the contents of his representation dated 24.05.2018, a fair decision has been taken to remove the encroachment caused by the petition as per the provisions of the Chennai City Municipal Corporation Act, 1919 and prays for dismissal of this writ petition.

6 This Court has considered the rival submissions and also perused the materials placed before it.

7 This Court, in paragraph No.7 of the final order dated 03.04.2018, made in WP.No.3138/2018 has permitted the petitioner to submit a representation by enclosing relevant and authenticated documents with a further direction, directing the 2nd respondent to afford an opportunity of personal hearing and dispose of the same in accordance with law within the stipulated time and accordingly, the petitioner had submitted a representation dated 23/24.05.2018. A perusal of the impugned communication of the 2nd respondent dated 28.05.2018 does not disclose that after receipt of such representation, the petitioner was afforded with an opportunity of personal hearing.

8 In the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner in this writ petition, directs the 2nd respondent to afford an opportunity of personal hearing to the petitioner by sending a notice fixing the date of hearing and upon receipt of the same, the petitioner shall appear before the 2nd respondent with relevant and authenticated documents and the same shall be considered by the 2nd respondent and appropriate orders be passed by the 2nd respondent in accordance with law within a period of six weeks from the date of conclusion of the personal hearing.

9 The writ petition stands disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True copy//

Sub Assistant Registrar

AP

To

- 1.The Commissioner
Greater Chennai Corporation
Ripon Buildings, Chennai-3.
- 2.The Assistant Commissioner
[Zone-X], Greater Chennai Corporation
Zonal Office-X, No.117, NSK Salai
Kodambakkam, Chennai 600 024.

+1cc to Mr.A.S.Balaji, Advocate SR.No.34674

+1cc to Mr.K.soundararajan, Advocate SR.No.35562

GN(11/06/2018)

WP.No.13387/2018

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