

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.No.26184 of 2018 and
WMP Nos.30466, 30407 and 30408 of 2018

A.Bhuvaneshwari

...Petitioner

-vs-

1.The Commissioner,
Chennai Corporation,
Rippon Building, Chennai - 600 003.

2.The Executive Engineer,
Zone -13, Corporation of Chennai,
Adyar, Chennai - 600 020.

3.The Assistant Engineer,
Division - 182, Zone -13,
Corporation of Chennai,
Adyar, Chennai - 600 020.

4.The Zonal Officer,
Zone - 13, Corporation of Chennai,
Adyar, Chennai - 600 020.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records relating to the impugned notice dated Nil passed by the respondents in the building bearing Plot No.B9/A2, 2nd Main Road, Survey No.216, PT, Thiruvalluvar Nagar, Thiruvannamiyur, Chennai - 600 041, quash the same.

For Petitioner : Mr.K.Venkatramani
Senior Counsel for
Mr.A.Saravanan

For Respondents : Mr.R.Arunmozhi
Standing Counsel

O R D E R
[Order of the Court was delivered by
K.K.SASIDHARAN, J.]

The de-occupation notice issued by the Chennai Corporation calling upon the owner/occupant of the Shop bearing No.B9/A2 is under challenge primarily on the ground that notice relating to the prior proceedings were not issued to the petitioner before passing such an order involving civil consequences to her.

2. When this writ petition came up for admission, the learned Senior Counsel contended that with respect to other occupants, enforcement action was not taken by the local body and selectively, the shop in the possession of the petitioner was directed to be closed. In view of the said submission, we have directed the learned Standing Counsel for the Chennai Corporation to take instructions and report the matter to this Court.

3. When the writ petition is taken up for hearing today, the learned Standing Counsel on instructions taken from Ms.V.Hemamalini, Assistant Engineer, Division -182, Zone 13, Greater Chennai Corporation, who is present in Court, submitted that other occupants have filed appeal before the Appellate Authority and as such, further action was not taken pursuant to the de-occupation notice.

4. The documents available on record indicates that de-occupation notice dated 3 July 2018 was served on the petitioner. According to the learned Senior Counsel for the petitioner, on account of the pending dispute with the owner of the premises, action was not taken for filing appeal before the statutory authority. The learned Senior Counsel submitted that in case, reasonable time is given, the petitioner would also file appeal before the Appellate Authority.

5. In view of the said submission and taking into account the background facts, we are inclined to grant liberty to the petitioner to file appeal.

6. We grant time till 30 October 2018 to the petitioner to file an appeal before the Government. It is also open to the petitioner to file an application for interim relief during the currency of the appeal. The Appellate Authority shall consider and dispose of the appeal on merits. The interlocutory application shall be considered at the first instance and appropriate orders should be passed to maintain the status quo. The respondents are directed to de-seal the premises in question so to enable the petitioner to resume the business viz., tea

shop, which she was conducting earlier. The premises shall be de-sealed by 9 October 2018.

7. In case, no appeal is filed within the time stipulated above, it is open to the respondents to proceed further in accordance with law. After removing the seal, the Status quo shall be maintained till orders are passed by the Appellate Authority either in the appeal or in the interim application, whichever is earlier.

8. The writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

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To

- 1.The Commissioner,
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+1cc to Mr.A.Saravanan, Advocate SR.No.69250

W.P.No.26184 of 2018

GMV (10/10/2018)