

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.05.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

AND

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.Nos.15101 and 14878 of 2019
and

W.M.P.Nos.15082 and 14864 of 2019

Mrs.D.Suja Devakumari ...Petitioner in W.P.No.15101 of 2019

M.Kumaran ...Petitioner in W.P.No.14878 of 2019

Vs

1. The Commissioner
Greater Chennai Corporation,
Rippon Building,
Chennai 600 003.
2. The Executive Engineer,
Greater Chennai Corporation,
Zone-10,
No.117, N.S.K.Salai,
Kodambakkam,
Chennai 600 024.
3. The Secretary to Government
Housing and Urban Development Department,
Fort St.George,
Chennai 600 009.

4. M.Kumaran ... Respondents in W.P.No.15101 of 2019

1. The Secretary to Government
Housing and Urban Development Department,
Fort St.George,
Chennai 600 009.

2. The Executive Enginner,
Greater Chennai Corporation,
Zone-10,
No.117, N.S.K.Salai,
Kodambakkam,
Chennai 600 024 ...Respondents in W.P.No.14878 of 2019

Prayer in W.P.No.15101 of 2019

Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of Madamus, directing the first and second respondents to de-seal the premises bearing Door No.34/66, East Jones Road, Saidapet, Chennai 600 015 and 3rd respondent to grant extension of time to the 4th respondent to rectify the defects of deviation and to de-seal the premises bearing Door No.34/66, East Jones Road, Saidapet, Chennai 600 015, within a time frame as may be fixed by this Court.

Prayer in W.P.No.14878 of 2019

Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of Madamus, directing the first respondent to grant extension of time of one year to rectify the defects of deviation and to de-seal the premises bearing Door No.34/66, East Jones Road, Saidapet, Chennai 600 015, within a time frame as may be fixed by this Court.

For Petitioner
in W.P.No.15101 of 2019 : Mr.K.Jayakumar

For Petitioner
in W.P.No.14878 of 2019 : Mr.M.Kamalanathan

For Respondents 1 and 2
in W.P.No.15101 of 2019: Mr.V.C.Selvasekaran STC

For Respondent -3
in W.P.No.15101 of 2019: Mr.P.S.Sivashanmugasundaram,
Spl.G.P.

For Respondent 1
in W.P.No.14878 of 2019: Mr.P.S.Sivashanmugasundaram,
Spl.G.P.

For Respondent -2
in W.P.No.14878 of 2019 : Mr.V.C.Selvasekaran

COMMON ORDER

(Order of the Court was made by N.SATHISH KUMAR.J,)

Writ Petition No.15101 of 2019 is filed praying for issuance of Writ of Madamus, directing the first and second respondents to de-seal the premises bearing Door No.34/66, East Jones Road, Saidapet, Chennai 600 015 and 3rd respondent to grant extension of time to the 4th respondent to rectify the defects of deviation and to de-seal the premises bearing Door No.34/66, East Jones Road, Saidapet, Chennai 600 015, within a time frame as may be fixed by this Court.

2. Writ Petition No.14878 of 2019 is filed praying for issuance of Writ of Madamus, directing the first respondent to grant extension of time of one year to rectify the defects of deviation and to de-seal the premises bearing Door No.34/66, East Jones Road, Saidapet, Chennai 600 015, within a time frame as may be fixed by this Court.

3. The petitioner in W.P.No.15101 of 2019 claims to be a tenant on the basis of the Rental Agreement dated 01.11.2016, which is said to have been renewed twice and tenancy expires on 31.07.2019. The petitioner in W.P.No.14878 of 2019 claims to be the landlord of the building therein.

4. It is the contention of the learned counsel appearing for the petitioner in W.P.No.15101 of 2019 that she is a bona-fide tenant and in view of the sealing of the building, she is unable to reside in the property. The petitioners in both the Writ Petitions pray that a direction may be issued to the Corporation of Chennai to remove the seal of the building in question.

5. Heard the learned counsel appearing for both sides and also perused the counter affidavit filed in W.P.No.14878 of 2019.

6. The Counter affidavit makes it clear that the owner of the premises has constructed the building with utter deviation in the plan, thereby the Corporation of Chennai has issued a notice under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, dated 09.09.2016. Challenging the same, a Writ Petition in W.P.No.30066 of 2016 was filed by the owner. The above Writ Petition was dismissed as withdrawn on 05.04.2017. The building was locked and sealed by

the Officials on 28.11.2016. Challenging the same, appeal was filed before the Secretary to Government, Housing and Urban Development Department, Chennai. The Government directed the Corporation of Chennai to de-seal the premises for a period of 6 months to rectify the defects and in pursuant to the above order, the building was de-sealed on 27.01.2017. Challenging the same, once again, appeal has been filed. Once again, similar order has been passed by the Secretary to Government. Again, the owner of the building has not complied with the orders, nor rectified the defects. Thereafter, once again, the building in question was sealed on 13.11.2017 and permission was granted to demolish the building in W.D.C.No.DA/WDCN10/00360/2018, dated 16.10.2018. Again, the building was de-sealed on 12.01.2019 for a period of three months. The building in question was inspected and violation has not been set right.

7. The counter affidavit further makes it clear that the owner, despite several opportunities, has repeatedly got orders under the pretext of rectifying the deviations. However, he has not done so. Ultimately and finally, the Corporation has sealed the building in question. The above counter affidavit also makes it clear that the owner, without any intention of rectifying the mistake, has continued to violate the building Rules and despite there are specific orders not to let out the building to anybody, it appears that Lease Deed is said to have come into existence on 01.11.2016. It is interesting to note that on 28.11.2016, the building was sealed to make it appear as if the tenant was already inducted an unregistered agreement has been created on 01.11.2016, and thereafter, it was said to have been renewed twice.

8. From the Counter affidavit filed in W.P.No.14878 of 2019, it could be seen that several times the building was sealed for long period. That being the position, it is highly improbable and unbelievable that the tenant is residing in the building. The photograph of the building in question makes it clear that the building is shown as Lodge, namely, KNM Residency. Such being the position, the contention of the petitioner that the building in question should be de-sealed, cannot be countenanced.

9. It is the main contention of the petitioner in W.P.No.14878 of 2019 that there is a proper plan for the first and second floors and the deviation is only with respect to the third to fifth floors and therefore, the first and second floors may not be sealed. Such a contention cannot be countenanced for the simple reason that merely because one or two floors had been constructed with the permission of the authorities and rest of the building in entirety consisting of many floors are constructed under violation, the violators cannot be permitted

to occupy the portions which are said to have been constructed with proper plan. Several opportunities have been given to the landlord to rectify the mistake and set right the deviations, but he has not chosen to follow the procedures and comply with the orders passed by the authorities on several occasions. The conduct of the petitioners purely indicates that they have no regard to the Rule of Law. Of course, mistake is common for human beings and when violations have been pointed out and several opportunities having been given, if the person who does not care for such directions, continue to violate the Rule of Law, cannot seek any sympathy from the Court of Law. Hence, we find no merits in the Writ Petition.

10. At the most, the tenants are permitted to remove all their articles and belongings under the supervision of the Assistant Engineer of the concerned area of the Corporation of Chennai. The tenants are permitted to enter into the premises under the supervision of the said Assistant Engineer and remove all their belongings. Such exercise shall be completed on or before 04.06.2019. Immediately after removal of the tenants in the building in question, the Corporation of Chennai is directed to seal the building once again.

11. With the above observations and directions, the Writ Petitions are dismissed. No costs. Consequently, W.M.Ps. are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

cs/srn
To

1. The Commissioner
Greater Chennai Corporation,
Rippon Building,
Chennai 600 003.
2. The Executive Engineer,
Greater Chennai Corporation,
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No.117, N.S.K.Salai,
Kodambakkam, Chennai 600 024.

3. The Secretary to Government
Housing and Urban Development Department,
Fort St.George,
Chennai 600 009.

+1cc to the Government Pleader Sr.44719
+1cc to Mr.P.Arumugam, Advocate Sr.44485

W.P.Nos.15101 and 14878 of 2019

ss[col]
srg 12/06/2019



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