

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.01.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

WP.No.659 of 2021
and W.M.P.Nos.721 & 727/2021

M/s.Indus Early Years Learning Centre
Partnership Firm
rep.by its Authorised Signatory Ms.Nandita Ramesh ..Petitioner

Versus

1. The Executive Engineer
Corporation of Chennai Zone 15
No.120, Rajiv Gandhi Salai,
Old Mahabalipuram Road,
Sholinganallur, Chennai 600 119.
2. M/s.Target Real Property India Pvt. Ltd.,
rep. By its Senior Manager-Exports Imports
Mr.E.D.Navaneethakrishnan having its registered office
at No.89/2, Padmavathipuram, Avinashi Road,
Tirupur 641 603. ...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records of the 1st respondent's de-occupation notice dated 16.12.2020 vide No.Div.192/JI/040/2018 and quash the same and further direct the 1st respondent to extend the time by 6 months to vacate the premises which falls on 30.06.2021.

For Petitioner : Mr.V.Ramesh for
Mr.T.Thiyagarajan
For RR 1 : Mr.K.Raja Srinivas
Standing Counsel

ORDER

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

The petitioner had entered into a registered Lease Agreement dated 24.01.2018 (Doc.No.516/2018) registered on the file of the Sub Registrar, Neelankarai, with the 2nd respondent in respect of

the part and parcel of the land and building bearing Door No.4/1, Sunrise Avenue, Kalaignar Karunanidhi Salai, Neelangarai, Chennai 600 041, situated at No.134, Neelangarai Village, Sholinganallur Taluk, Kancheepuram District, comprised in Pymash No.179/A, patta no.265, S.F.No.83/3 part and subsequent S.F.No.83/3B part, then patta no.3096 as per New Patta No.3141 dated 23.07.2010 New S.F.No.83/3BIB admeasuring a total extent of 27.05 cents together with 8000 sq.ft building.

2. Mr.V.Ramesh, learned counsel appearing for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that the said superstructure is also subjected to statutory levies at the hands of the Greater Chennai Corporation and before starting a school in the said premises, necessary statutory clearances have also been obtained. It is the further submission of the learned counsel appearing for the petitioner that the 1st respondent has issued a Locking, Sealing and Demolition notice dated 28.01.2020 and it is followed by impugned Deoccupation notice dated 16.12.2020.

3. The primordial submission made by the learned counsel appearing for the petitioner is that at the time of entering into the registered Lease Agreement dated 24.01.2018, the petitioner was not made aware as to the authorised / deviated / unauthorised superstructure and since the first notice dated 28.01.2020, was issued to them, not to the owner, had kept quite and having felt that the deoccupation is imminent, is constrained to approach this Court by filing this Writ Petition.

4. The learned counsel appearing for the petitioner on instructions would also submit that in the light of the further developments, the petitioner is also willing to vacate from the premises in question on or before June 2021 and the said submission on instructions, is placed on record. In sum and substance, it is the submission of the learned counsel appearing for the petitioner that since a School is running, if the impugned order of deoccupation is put into effect, ultimate sufferers are the students and hence prays for appropriate orders.

5. Per contra, Mr.Raja Srinivas, learned Standing Counsel accepts notice on behalf of the respondents and would submit that in the light of the order dated 01.02.2018 passed in W.P.Nos.29772, 29773, 33331, 34567, 34568, 34092, 35042 and 40874 of 2002 W.P.No.18179 of 2001, W.P.No.9518 and 9519 of 2003, immediate and necessary action is being taken in accordance with law and further points out that though locking, sealing and demolition notice, came to be issued to the petitioner as early as on 28.01.2020, the petitioner for the best known reasons, kept quite and only when deoccupation notice

dated 16.12.2020 came to be issued, they are constrained to approach this Court by filing this Writ Petition and prays for dismissal of this Writ Petition with exemplary costs.

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

7. Admittedly, the petitioner received the earlier locking, sealing and demolition notice dated 28.01.2020, issued by the 1st respondent and as rightly pointed out by the learned standing counsel appearing for the 1st respondent, they kept quiet and the 1st respondent by following due process of law, has issued the deoccupation notice dated 16.12.2020. The petitioner is also having an effective alternative remedy under Section 80A of the Tamil Nadu Town and Country Planning Act, 1971 with a provision for interim order under Section 80A(3) of the TCP Act and in the light of the said effective alternative remedy available, if the petitioner is so advised, they are at liberty to file the Special Revision / appeal along with the petition for interim relief before the Secretary to Government, Housing and Urban Development Department, Secretariat, Chennai 600 009, within a period of two weeks from the date of receipt of a copy of this order / uploading of the order in the website and upon receipt of the same, the 1st respondent or the delegated authority may entertain the said Special Revision, if the papers are otherwise in order, without insisting for limitation and take up the petition for interim relief at the first instance, by putting on notice the 2nd respondent, who said to be the owner of the land and the building and give a disposal within a period of two weeks thereafter and till such time, the 1st respondent shall defer decisions in terms of the impugned notice. It is made clear that this Court have not gone into the legality or otherwise of the stand taken by the petitioner in this Writ Petition.

8. The Writ Petition stands disposed of accordingly. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To
The Executive Engineer
Corporation of Chennai Zone 15
No.120, Rajiv Gandhi Salai,
Old Mahabalipuram Road,
Sholinganalur, Chennai 600 119.

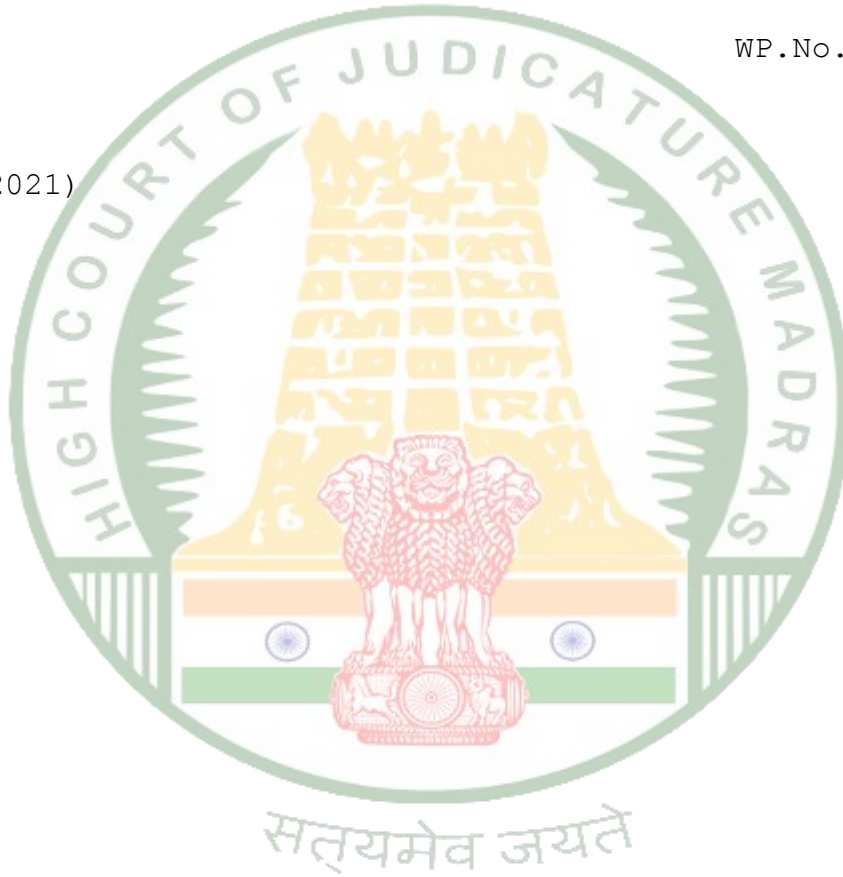
Copy to:
The Secretary to Government,
Housing and Urban Development Department,
Secretariat,
Chennai 600 009,

+1cc to M/s.T.Thiyagarajan, Advocate, S.R.No.1568

+1cc to the Government Pleader, S.R.No.1833

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