

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.02.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

W.P.No.4031 of 2021
and W.M.P.No.4607 of 2021

Periyasamy .. Petitioner

Versus

1. The Greater Chennai Corporation,
Rep.by its Commissioner,
Rippon Building, Chennai-3.
2. The Assistant Engineer,
The Greater Chennai Corporation,
AE/DN-95, 2nd Cross Street (East), Pulla Avenue,
Shenoy Nagar, Chennai 600 030.
3. The Assistant Executive Engineer,
The Greater Chennai Corporation,
Unit 21, 2nd Cross Street (East), Pulla Avenue,
Shenoy Nagar, Chennai 600 030.
4. The Executive Engineer,
The Greater Chennai Corporation,
Zone-08, 2nd Cross Street (East), Pulla Avenue,
Shenoy Nagar, Chennai 600 030.

5.D.Santhakumar .. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents 1 to 4 to issue notice and give an opportunity before taking any coercive steps in respect of the property of ground floor of the premises bearing Door No. 1/ 1A/ 27, O- Block, II Phase, Agathiyar Nagar, Chennai 600 049 by the consideration of petitioners representation dated 16.2.2021 and pass such further or other order or orders as this Forum may deem fit.

For Petitioner : Mr.S.Srinivasa Narayanan

For RR1 to 4 : Mr.K.Raja Shrinivas
Standing Counsel (Corporation)

ORDER

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

The petitioner is one of the tenants of Mr.D.Santhakumar, who is the owner of the premises bearing Door No.1/1A/27, O-Block, II Phase, Agathiyar Nagar, Chennai 600 049. According to the learned counsel appearing for the petitioner, the owner of the premises was issued with a notice dated 30.10.2019, calling for an approved building plan and since it has not been furnished, the respondents 2 to 4 had issued Locking, Sealing and Demolition notice dated 29.11.2019.

2. The primordial submission made by the learned counsel appearing for the petitioner is that he has entered into an unregistered Lease Deed dated 01.01.2016, for a period of two years and the same has been renewed from time to time and if an opportunity is given to him, he is ready to vacate and deliver vacant possession of the premises within four weeks from the date of receipt of a copy of this order and prays for appropriate order.

3. Per contra, Mr.Raja Srinivas, learned Standing Counsel (Corporation) accepts notice on behalf of the respondents 1 to 4 and would submit that admittedly, major portion of the premises are unauthorised / deviated and conversion was also done for commercial exploitation and the De-occupation notice dated 16.02.2021 has been issued and since action has been taken in accordance with law, the petitioner who claims to be a tenant, cannot claim any better title than that of the landlord namely, Mr.D.Santhakumar and prays for dismissal of this Writ Petition.

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

5. It is relevant to extract the details of the deviation enumerated in the Locking, Sealing and Demolition Notice of the 4th respondent dated 29.11.2019:

S.No	Details	As per approved plan	As per site	Difference	Unauthorised /deviation
I.Set back					
1	Front	1.52m	Nil	1.52m	Deviation
2	Rear	1.52m	Nil	1.52m	Deviation

S.No	Details	As per approved plan	As per site	Difference	Unauthorised /deviation
3	Side 1 (left)	0.61m	Nil	0.61m	Deviation
4	Side 2 (right)	2.64m	Nil	2.64m	Deviation
II.Floor Area					
1	Ground Floor	65.89 sq.m	128.38 sq.m	62.49 sq.m	Deviation
2	First Floor	60.57 sq.m	141.94 sq.m	81.37 sq.m	Deviation
3	Second Floor	Nil	141.94 sq.m	141.94 sq.m	Unauthorised
III.Usage of the building-Floor Wise					
1	Ground Floor	Residential	Residential/Commercial	-	-
2	First Floor	Residential	Residential/Commercial	-	-
3	Second Floor	Nil	Residential	-	Unauthorised

6. A perusal of the typed set of documents would disclose that the landlord has submitted an application bearing Receipt No.CMDA/Reg-113C/896/2019, dated 27.11.2019, to the Chennai Metropolitan Development Authority for regularisation, and it is not known, how the tenant came into possession of the said document and it prima facie discloses that the landlord is using the services of the tenant / petitioner herein to stall the further proceedings in pursuant to the locking, sealing and demolition dated 29.11.2019. It is also relevant to extract the Disclaimer column of the said Regularisation Application:

''Disclaimer

- filing an application for exemption under these regulations will not in any way prevent the competent authority from taking action under any of the provisions of the Act, unless otherwise ordered so by the competent authority.
- Development charges and other applicable charges normally leviable at current rates will be collected after scrutiny and ascertaining approvability.''

7. In the light of the submission made by the learned counsel appearing for the petitioner, on instructions, that he

is ready and willing to vacate the portion of the premises under his occupation for residential purpose within a period of four weeks from the date of receipt of a copy of this order / uploading of the order in the website, this Court, without going into the merits of the claim projected by the petitioner in this Writ Petition, directs the respondents 2 to 4 to defer further proceedings insofar the premises under occupation of the petitioner till such time and in the event of non-compliance of this order, shall proceed further in accordance with law and complete the exercise within a period of six weeks thereafter and communicate the decision taken, to the petitioner, 5th respondent and other persons concerned.

8. The Writ Petition stands disposed of accordingly. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Commissioner,
The Greater Chennai Corporation,
Rippon Building, Chennai-3.
 - 2.The Assistant Engineer,
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The Greater Chennai Corporation,
Zone-08, 2nd Cross Street (East), Pulla Avenue,
Shenoy Nagar, Chennai 600 030.
- +1 cc to Mr.K.Raja Shrinivas, Advocate Sr.No. 9964
+1 cc to M/s.S.Srinivasa Narayanan, Advocate Sr.No. 9957
+1 cc to The Government Pleader Sr.No. 10436

W.P.No.4031 of 2021

GPL(CO)
RMP(15/03/2021)