

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.02.2021

CORAM

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

WP.Nos.4388 & 4391/2021 & WMP.Nos.4976 & 4983/2021

Shaji .. Petitioner in WP.No.4388/2021

G.Antony Raj .. Petitioner in WP.No.4391/2021

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
Zone-08, 2nd Cross Street [East]
Pulla Avenue, Shenoy Nagar
Chennai 600 030.

5. D.Santhakumar .. Respondents in both WPs

Prayer in WP.No.4388/2021:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of writ of mandamus directing the respondents 1 to 4 to issue notice and an opportunity before taking any coercive steps in respect of the property of 1st and ground floor of the premises bearing Door No.01A 27, Kumarasamy Nagar Main Road, Villivakkam, Chennai 600 049 by the consideration of the petitioner's representation dated 20.02.2021.

Prayer in WP.No.4391/2021:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of writ of mandamus directing the respondents 1 to 4 to issue notice and an opportunity before taking any coercive steps in respect of the property of ground floor of the premises bearing Door No.01A 27, Kumarasamy Nagar Main Road, Villivakkam, Chennai 600 049 by the consideration of the petitioner's representation dated 20.02.2021.

For Petitioners in
both Petitions : Mr.Arivazhagan for
Mr.S.Srinivasa Narayanan
For RR 1 to 4 in
both WPs : Mr.K.Raja Srinivas
Standing counsel

COMMON ORDER

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

- (1) By consent, both the writ petitions are taken up together and are disposed of by this common order, since the issue to be adjudicated and decided is one and the same.
- (2) Mr.K.Raja Srinivas, learned Standing counsel accepts notice on behalf of respondent 1 to 4.
- (3) The petitioners would claim that they are tenants under the 4th respondent in respect of the two shops in the premises bearing Door No.01A 27, Kumarasamy Nagar Main Road, Villivakkam, Chennai - 49 and they are eking out their livelihood by doing small business and they have also got necessary statutory clearances.
- (4) The learned counsel for the petitioners would submit that to the shock and surprise of the petitioners, on 16.02.2021, respondents 2 to 4 came to the shops of the petitioners and informed them that since the entire construction is wholly unauthorised, they are contemplating to initiate appropriate action in accordance with the provisions of the Town and Country Planning Act, 1971.
- (5) The primordial submission made by the learned counsel for the petitioners is that the petitioners, being the occupiers, have not at all been issued with any kind of notices and they are the lawful tenants under the 4th respondent and in the event of the premises is put under lock and seal, their livelihood would be affected. Alternately, it is also pleaded by the learned counsel for the petitioners that if some breathing time is given, the petitioners are ready and willing to vacate the premises so as to avoid further hardship and problems.
- (6) Mr.K.Raja Srinivas, learned Standing counsel appearing for

respondents 1 to 4 on instructions, would submit that one of the tenants had also filed WP.No.4031/2021 raising the very same contention and it came to be disposed of by this Court by granting the petitioner therein four weeks time to vacate from the premises in question and prays for appropriate orders.

(7) This Court has considered the rival submissions and also perused the materials placed before it.

(8) It is relevant to extract the details of the deviation set out in the De-Occupation Notices dated 08.01.2021 issued by respondents 2 to 4:-

Sl.No	Details	As per approved plan	As per site	Difference	Unauthorised / Deviated
I Set Back					
1	Front	1.52 m	Nil	1.52 m	Deviation
2	Rear	1.52 m	Nil	1.52 m	Deviation
3	Side left	0.61 m	Nil	0.61 m	Deviation
4	Side Left 2 [Right] 9	2.64 m	Nil	2.64 m	Deviation
II Floor Area					
1	Ground Floor	65.89 sq.m.	128.38 sq.m	62.49 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	-	-

(9) It prima facie appears that the entire construction appears to be wholly unauthorised and it is not made known whether the 4th respondent had taken any legal proceedings in this regard. The petitioners, before taking out the shops on lease, should

have done some due diligence as to the authorised/unauthorised/deviated construction and it appears that they have not done so.

(10) Be that as it may, this Court is inclined to consider the alternate submission made by the learned counsel for the petitioners in the light of the fact that they are small traders and eking out their livelihood by doing small/petty business.

(11) In the result, the writ petitions are disposed of and the petitioners are granted four weeks time from the date of receipt of a copy of this order / uploading of the order in the website for vacating the respective shops in their occupation and till such time, the respondents shall defer further decision in terms of the impugned de-occupation notices. It is made clear that the petitioners, till they vacate their respective shops, shall not create any third party rights in respect of the shops in question. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

To

1. The Commissioner
Greater Chennai Corporation
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+1 cc to M/s.K.RajaSrinivas, Advocate Sr.No. 11232
+2cc to M/s.S.Srinivasanarayanan, Advocate, Sr.No. 11596,11595

WP.Nos.4388 & 4391/2021

PMK (CO)
RMP (17/03/2021)



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