

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.03.2021

CORAM

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

W.P.No.6823 of 2021
and W.M.P.No.7372 of 2021

A.Poongavanam

...Petitioner

Versus

1. The Secretary,
Tamil Nadu Housing and Urban Development
Department, Fort.St.George,
Chennai 600 009.
2. The Commissioner,
Greater Chennai Corporation,
Ribbon Building, Vepery,
Chennai 600 003.
3. The Executive Engineer,
Zone 8, No.36B, 12B, 2nd Cross Street,
Pulla Avenue, Shenoy Nagar, Chennai 600 030.
4. The Assistant Executive Engineer,
Zone 8, Unit 22,
Greater Chennai Corporation,
No.36B, 12B, 2nd Cross Street,
Pulla Avenue, Shenoy Nagar, Chennai 600 030.
5. The Assistant Engineer,
Zone 8, Division 105,
Greater Chennai Corporation,
No.36B, 12B, 2nd Cross Street,
Pulla Avenue, Shenoy Nagar, Chennai 600 030. ..Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the Respondents 3 to 5 to remove the lock and seal made in the 2nd and 3rd floor of the premises bearing Door No.109, Periyar paathai, west Arumbakkam, chennai-600 106 on 16.2.2021, in pursuant to their De-occupation notice No. Zone-

8 / TPENF / 437A / 2019 dt.3.2.2021 and consequently forbearing the Respondents 3 to 5 from interfering with the peaceful possession of the petitioner in the petition premises bearing door No.109 Periyar paathai West Arumbakkam, Chennai 600 106 till such a time the statutory appeal which is preferred on 22.02.2021 against DE-occupation notice and lock and seal of the respondents 3 to 5 vide Notice No.Zone-8/TPENF/437A/2019, dated 03.02.2021 is disposed off.

For Petitioner	:	Mr.V.Saravana Rengan
For RR 1	:	Mr.S.Kamalesh Kannan
		Government Advocate
For RR2 to 5	:	Mr.K.Raja Shrinivas
		Standing Counsel

ORDER

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

The petitioner claims to have purchased the land admeasuring to an extent of 1224 sq.ft along with the superstructure having a plinth area of 1000 sq.ft in old Door No.107/D, New Door No.13, T.S.No.1/24, Block No.2, Puliyur Village, Chennai, through a registered Sale Deed dated 02.05.2007 and claims to have engaged in the business of Arasu Cable TV Network and other Networks and also running the business of Body Fitness Centre for the purpose of eking out his livelihood.

2. The petitioner would further aver that after purchase, he mutated the revenue records in his favour and during the year 2015-2016, he further developed the property by constructing First Floor (1000 sq.ft), Second Floor (1000 sq.ft) and Third Floor 300 sq.ft and it has also been subjected to statutory levies.

3. The grievance expressed by the petitioner is that all of a sudden, he has been issued with a De-occupation notice dated 03.02.2021, on 06.02.2021 and it is not preceded by any notices, calling for an approved plan and locking, sealing and demolition notices.

4. The learned counsel appearing for the petitioner would submit that challenging the De-occupation notice dated 03.02.2021, the petitioner has also preferred a Statutory revision / appeal dated 22.02.2021, before the 1st respondent, along with petition for interim relief and in the interregnum, steps are being taken to demolish the alleged unauthorised construction and therefore, prays for appropriate orders.

5. Per contra, Mr.K.Raja Srinivas, learned Senior Standing Counsel appearing for the respondents 2 to 5 would submit that the petitioner has received Locking and Sealing notice dated 04.04.2019, as well as the De-occupation notice dated 03.02.2021 and admittedly, the petitioner did not have any Planning Permission and that apart, in paragraph no.3 of the affidavit, filed in support of this Writ Petition, the petitioner would admit that he has put up the additional construction to the tune of 2000 sq.ft in the form of first, second and third floors and since action has been taken strictly in accordance with law, the petitioner cannot make any grievance and prays for dismissal of this Writ Petition.

6. The learned counsel appearing for the petitioner, responding to the said submission, has drawn the attention of this Court to the additional affidavit of the petitioner dated 19.03.2021 and would submit that except De-occupation Notice dated 03.02.2021, he has not been served with any other notices.

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

8. It prima facie appears to this Court from the materials placed that the petitioner has purchased the land along with superstructure, having plinth area of 1000 sq.ft and put up additional construction in the form of first, second and third floors, to an extent of 2300 sq.ft. Be that as it may, the petitioner appears to have preferred the Special Revision / Appeal dated 22.02.2021, along with the prayer for interim relief, before the 1st respondent and it was also acknowledged on the same day.

9. This Court, taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner, either in his Special Revision / Appeal dated 22.02.2021, preferred before the 1st respondent or in this Writ Petition, directs the 1st respondent to entertain the Special Revision / Appeal, if the papers are otherwise in order and take up the petition for interim relief, at the first instance and give a disposal in accordance with law, within a period of three weeks from the date of receipt of a copy of this order / uploading of the order in the Website and communicate the decision taken to the petitioner and till such time, the respondents 3 to 5 shall defer further decision in terms of the impugned De-occupation notice dated 03.02.2021 and the petitioner till the disposal of the Special Revision / Appeal, shall not create any third party right or alter the physical features, in respect of the land and superstructure in question.

10. The Writ Petition stands disposed of, with the above observations. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

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Tamil Nadu Housing and Urban Development
Department, Fort.St.George,
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+2cc to Mr.V.Saravana Rengan, Advocate, S.R.No.21223

W.P.No.6823 of 2021

CP(CO)
KKV/02/06/2021