

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2021

CORAM :

THE HONOURABLE MRS.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE T.V.THAMILSELVI

W.P.Nos.11326 & 11331 of 2021
and
M.P.Nos.11966 , 11969, 11973 & 11975 of 2021

P.Venkatachalam ... Petitioner in W.P.No.11326/2021
P.Madhanagopal ... Petitioner in W.P.No.11331/2021

Vs

- 1.The Executive Engineer,
Zone-VIII, Greater Chennai Corporation,
No.36-B, Pulla Avenue,
Shenoy Nagar, Chennai-600 030.
- 2.The Assistant Executive Engineer,
Unit-22, Zone-VIII, Greater Chennai Corporation,
No.36-B, Pulla Avenue,
Shenoy Nagar, Chennai-600 030.
- 3.The Assistant Engineer,
Division-105, Unit-22, Zone-VIII,
Greater Chennai Corporation,
Arumbakkam, Chennai-600 106.
- 4.The Secretary,
Housing and Urban Development Department,
Secretariat, St. George Fort,
Chennai. ... Respondents in both W.Ps
(R4 suo motu impleaded as per the order
passed by this Court on 30.04.2021)

PRAYER : Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the impugned De-Occupation Notice dated 20.03.2021 in notice No.Zone 8/TPENF/120/2021 of the respondents issued under Section 56 Sub Section 2(A) & Section 57 read with Section 85 of the Town and Country planning Act 1971 and to quash the same and consequently direct the respondent to grant planning permission for the building at New No.38, Old No.106, Pillayar Kovil Street, Arumbakkam, Chennai-600 106 without insisting for production of Patta.

Petitioner in both W.P.s: Mr.V.C.Selvasekaran

Respondents in both W.P.s

For R1 to R3 : Mr.K.Raja Srinivas

For R4 : Mr.S.Kamalesh Kannan

Government Advocate

ORDER

(Order of the Court was passed by N.KIRUBAKARAN, J)

The petitioners have approached this Court challenging the lock and seal notice dated 20.03.2021 issued under Section 56 Sub Section 2(A) & Section 57 read with Section 85 of the Town and Country planning Act 1971, for not getting planning permission and approved plan for the construction.

2.The petitioners are the owners of the property situated at New No.38, Old No.106, Pillayar Kovil Street, Arumbakkam, Chennai-6, measuring an extent of about 739 sq.ft., on the rear side forming part of the larger extent of land measuring about 1478 sq.ft., which was originally belongs to their ancestors and classified as Grama Natham lands comprised in T.S.No.73 of Arumbakkam Village, Chennai.

3.The petitioners have put up construction upto second floor in the said premises. However, based on the complaint, the authorities visited the property and issued the impugned order.

4.Since the Housing and Urban Development Department is necessary party to this proceedings, this Court suo motu impleads the Secretary, Housing and Urban Development Department, Secretariat, St. George Fort, Chennai. as 4th respondent to this proceedings.

5.Heard Mr.V.C.Venkatachalam, learned counsel appearing on behalf of the petitioner, Mr.K.Raja Srinivas, learned standing counsel who takes notice on behalf of respondents 1 to 3 and Mr.S.Kamalesh Kannan, Government Advocate who takes notice on behalf of the newly impleaded 4th respondent.

6.Taking into consideration the facts and circumstances of the case, without expressing any opinion on the merits of the case, this Court only directs the petitioner to avail the alternate remedy under Section 80 of the Act before the newly impleaded 4th respondent.

7.The petitioners are directed to file an appeal before the newly impleaded 4th respondent, within a period of three weeks from the date of receipt of a copy of this order. On such filing of appeal, the newly impleaded 4th respondent shall give

an opportunity of hearing to the petitioners and dispose of the appeals, within a period of twelve weeks from the date of receipt of appeal. Till the appeal is decided and copy of the same is served on the petitioners, possession of the petitioners shall not be disturbed and the petitioners shall not encumber the property or not make any further construction and not create any 3rd party claim.

8. With the above direction, the Writ Petitions are disposed of. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Executive Engineer,
Zone-VIII, Greater Chennai Corporation,
No.36-B, Pulla Avenue,
Shenoy Nagar, Chennai-600 030.
2. The Assistant Executive Engineer,
Unit-22, Zone-VIII, Greater Chennai Corporation,
No.36-B, Pulla Avenue,
Shenoy Nagar, Chennai-600 030.
3. The Assistant Engineer,
Division-105, Unit-22, Zone-VIII,
Greater Chennai Corporation,
Arumbakkam, Chennai-600 106.
4. The Secretary,
Housing and Urban Development Department,
Secretariat, St. George Fort, Chennai.

+2cc to Mr.V.C.Selvasekaran, Advocate, S.R.No.26842, 26843

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and
M.P.Nos.11966 , 11969, 11973
& 11975 of 2021

RSV(CO)
GN(01/07/2021)