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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2021

CORAM :

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

W.P. No. 15923 of 2021
and
W.M.P. No. 16825 of 2021

K.Vinayagamoorthy

... Petitioner

Vs.

1. The Commissioner
Greater Chennai Corporation
Ripon Buildings
Chennai - 600 003.
2. Deputy Commissioner (Central)
Greater Chennai Corporation
Shenoy Nagar
Chennai - 600 030.
3. Executive Engineer - IX
Greater Chennai Corporation, Zone IX
1, Lake Area, 4th Cross Street
Nungambakkam, Chennai - 600 034.
4. Assistant Executive Engineer / Unit - 26
Greater Chennai Corporation, Zone IX
1, Lake Area, 4th Cross Street
Nungambakkam, Chennai - 600 034.
5. Assistant Engineer / Dn 113
Greater Chennai Corporation, Zone IX
1, Lake Area, 4th Cross Street
Nungambakkam, Chennai - 600 034.
6. The Secretary to the Government
of Tamil Nadu
Housing and Urban Development Department
Secretariat, Fort St. George
Chennai - 600 009.
[R6 suo motu impleaded vide order
dated 03.08.2021 by this Court]

... Respondents



PRAYER : Petition filed under Section Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records with respect of Lock and Seal Notice No.Z.IX.TPENF/Dn-113/12/2021 dated 11.06.2021 issued by the Respondent Nos. 3 to 5 under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 as amended by Act 61 of 2008 requiring compliance with the planning permission granted under Section 49 of the said Act by locking and sealing the portions constructed in contravention of the permission and quash the notice issued to the Petitioner.

For Petitioner : Mr. S.Balasubramanian

For Respondents : Mr. K.Raja Srinivas (For R1 to R5)
Mrs. R.Anitha (For R5)
State Government Counsel

ORDER

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

The matter was heard through ''Video Conference''.

2. The Petitioner has challenged the lock and seal notice dated 11.06.2021 in No.Z.IX.TPENF/Dn-113/12/2021 issued by the Third to Fifth Respondents under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 (hereinafter referred to as 'the Act' for short) alleging that the Petitioner had put up unauthorized construction to an extent of 176.58 square meter both in the ground floor and in the First Floor in respect of property bearing old No.31, New No.73, Melpadi Muthu Street, Nungambakkam, Chennai - 600 034.

3. Mr. S.Balasubramanian, Learned Counsel for the Petitioner contends that the property does not belong to him, and the subject property has already been settled by my wife to my son viz., V.Bharathbabu, vide settlement deed dated 05.12.2003. Therefore, notice is required to be issued to the owner of the property alone as the said notice has been sent to the Petitioner herein.

4. However, a perusal of the letter dated 14.06.2021 written by the Petitioner to the Executive Engineer, Greater Chennai Corporation - Zone IX, Nungambakkam, Chennai - 600 034 reveals that the Petitioner is also residing along with his son in the subject property, for which the Lock and Seal notice dated 11.06.2021 has been issued by the Respondents /Corporation. Therefore, a technical objection raised by the Petitioner may not be having any support to his contention.



5. In view of that, the Petitioner or the owner of the subject property is permitted to file an Appeal under Section 80-A of the Act before the Secretary to the Government of Tamil Nadu, Housing and Urban Development Department, Secretariat, Fort St. George, Chennai against the lock and seal notices issued by the Respondents / Corporation, within a period of four weeks from the date of receipt of a copy of this order. However, this Court, suo motu, impleads the Secretary to the Government of Tamil Nadu, Housing and Urban Development Department, Secretariat, Fort St. George, Chennai as the Sixth Respondent in this Writ Petition and Mrs. R.Anitha, Learned State Government Counsel takes notice for the newly impleaded Sixth Respondent. On filing of such Appeal, this Court directs the Sixth Respondent to dispose of the Appeal filed under Section 80-A of the Act, after giving due notice to parties concerned and affording opportunity of hearing them, within a period of six months, thereafter. Till such time no coercive steps shall be taken against them by the Official Respondents.

6. With the above directions, this Writ Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Maya

To

1. The Commissioner
Greater Chennai Corporation
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+1CC to Mr.S.Balasubramaniam, Advocate, Sr.No.37805

W.P. No.15923 of 2021

PMK (CO)
K.RK. (20.09.2021)