

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.02.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

W.P.No.14922 of 2020

N.R.Kumaraguru

.. Petitioner

Versus

1. The Commissioner,  
Corporation of Chennai,  
Rippon Buildings,  
Chennai 600 003.
2. The Member Secretary,  
Chennai Metropolitan Development Authority,  
Egmore, Chennai 600 008.
3. The Executive Officer,  
Arulmigu Sri Kandasamy of Kandhakottam,  
Sri Muthukumarasamy Devasthanam,  
No.44, Rasappa Chetty Street,  
Park Town, Chennai 600 003.

5.S.Varalaxmi Srinivasan

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus seeking to direct the 1<sup>st</sup> respondent to consider and dispose of his representation dated 25.08.2020 seeking appropriate action to demolish the unauthorised construction put up by the 4<sup>th</sup> respondent at No.136, Rasappa Chetty Street, Chennai 600 003 and pass such further or other orders.

|                  |                                    |
|------------------|------------------------------------|
| For Petitioner : | Ms.S.P.Arthi                       |
| For RR1 :        | Mr.Raja Srinivas, Standing Counsel |
| For RR3 :        | Mr.R.Bharanidharan                 |
| For RR4 :        | Mr.A.Palaniappan                   |

## ORDER

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

The petitioner, who is a resident of Door No.14/25, Murali Street, Mahalingapuram, Chennai 600 034, came forward to file this Writ Petition stating among other things that the 3<sup>rd</sup> respondent Temple owns a land at Door no.136, Rasappa Chetty Street, Chennai 600 003, admeasuring an extent of about 400 sq.ft and the said property is the subject matter of lease in favour of the 4<sup>th</sup> respondent, who also owns his property, right adjacent to the said property, on a monthly rent of Rs.4,000/- and the lease is for a period of four years. The 4<sup>th</sup> respondent, challenging the fixation of fair rent has also filed a writ petition and the grievance expressed by the petitioner is that the 4<sup>th</sup> respondent who took out the lease of the said property, belonging to the temple has annexed the same along with his property and put up an unauthorised structure without any Planning Permission and the representation submitted in this regard had failed to invoke any kind of response and therefore, he is constrained to approach this Court by filing this Writ Petition.

2. The writ petition was entertained and notices were ordered. Mr.Raja Srinivas, learned Standing Counsel appears for the 1<sup>st</sup> respondent and would submit that admittedly the extent of land is very small and he has put up the superstructure and running an hardware shop for eking out his livelihood and also for residential purposes and drawn the attention of this Court to the counter affidavit filed by the Greater Chennai Corporation.

3. Mr.A.Palaniappan, learned counsel appearing for the 4<sup>th</sup> respondent would submit that the petitioner is having an axe to grind against the 4<sup>th</sup> respondent for the reason that the husband of the 4<sup>th</sup> respondent was elected as one of the Trustees to Arulmigu Muthukumarasamy Devasthanam and infuriated by the same, the petitioner started harassing him and he would further add that in the light of the fact that the 3<sup>rd</sup> respondent has leased out the property to the 4<sup>th</sup> respondent and he has put up superstructure and paying rent, it is beneficial to the 3<sup>rd</sup> respondent and in the light of the malafide and oblique motive on the part of the petitioner, the writ petition is liable to be dismissed with exemplary costs.

4. Mr.R.Bharanidharan, learned Standing Counsel appearing for the 3<sup>rd</sup> respondent has invoked the statutory remedies available to them under Section 80A of the Tamil Nadu Town and Country Planning Act by filing an appeal / special revision

dated 08.02.2021 before the Principal Secretary to Government, Housing and Urban Development Department, Chennai 600 009, against the De-occupation notice dated 01.02.2021 and it was also acknowledged on 10.02.2021 and along with the said statutory revision / appeal, the 3<sup>rd</sup> respondent Devasthanam, has also filed a petition, praying for interim relief

5. The petitioner has filed a reply affidavit to the counter affidavit of the 4<sup>th</sup> respondent. The petitioner as well as his son are involved with the Sivachariar Madam and that being an ardent devotee of the 3<sup>rd</sup> respondent Temple and also taking into consideration the illegalities committed by the 4<sup>th</sup> respondent, he has filed the writ petition and in the light of the fact that the Executive Engineer has issued a De-occupation notice dated 01.02.2021, it amply sustained the case of the petitioner and prays for appropriate orders.

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

7. In the light of the stand taken by the 3<sup>rd</sup> respondent that the land on which the superstructure has been put up has been leased out in favour of the 4<sup>th</sup> respondent and it appears that out of funds provided by the 4<sup>th</sup> respondent, the 3<sup>rd</sup> respondent Temple administration appears to have put up a superstructure consisting of ground + two floors and it is being used by the 4<sup>th</sup> respondent in the form of running an hardware shop as well as for residential purpose and the Zonal Officer, Zone V of Greater Chennai Corporation, subsequent to the filing of the Writ Petition has issued a notice, calling for approved plan, followed by locking, sealing and demolition notice dated 31.10.2020 and since it has not been responded properly, has issued the de-occupation notice dated 01.02.2021 and challenging the legality of the same, the 3<sup>rd</sup> respondent has also filed the statutory revision / appeal along with petition for Stay before the Government and the same has been received on 10.02.2021.

8. This Court, taking into consideration the above facts and circumstances, directs the Secretary to Government of Tamil Nadu Housing and Urban Development Department, Secretariat, Chennai 600 009, to entertain the said revision / appeal, if the papers are otherwise in order, after putting the petitioner as well as the 4<sup>th</sup> respondent, on notice and shall take up the petition for Stay at the first instance and give a disposal in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order / uploading of the order in the Website and it is open to the said authority to accord priority and dispose of the main revision / appeal itself.

9. The Writ Petition stands disposed of, accordingly. No costs.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Commissioner,  
Corporation of Chennai,  
Rippon Buildings,  
Chennai 600 003.
- 2.The Member Secretary,  
Chennai Metropolitan Development Authority,  
Egmore, Chennai 600 008.
3. The Secretary,  
Government of Tamil Nadu,  
Housing and urban Development department  
Secretariat , Chennai-600 009.
- 4.The Executive Engineer,  
Arulmigu Sri Kandasamy of Kandhakottam,  
Sri Muthukumarasamy Devasthanam,  
No.44, Rasappa Chetty Street,  
Park Town, Chennai 600 003.

+1 cc to M/s.K.Raja Srinivas, Advocate Sr.No. 9965

+1 cc to M/s.A.Palaniappan, Advocate Sr.No. 10363

SKY(CO)  
RMP(18/03/2021)

W.P.No.14922 of 2020

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