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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2021

CORAM :

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

W.P. Nos. 17479 & 17483 of 2021
and
W.M.P. Nos. 18562, 18563, 18566 & 18567 of 2021

W.P. No. 17479 of 2021:-

M/s. Krithi Textile
Represented by Naveen Bokadia
Partner
Office at 1/232, A GNT Bypass Road
Redhills, Chennai - 52
Now doing business at 2/2, MTH Road
Villivakkam, Chennai - 49.

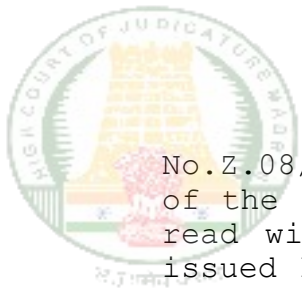
... Petitioner

Vs.

- 1.The Principal Secretary to Government
Housing and Urban Development Department
Fort St. George Secretariat, Chennai - 600 009.
- 2.The Commissioner
Greater Chennai Corporation
Chennai - 600 003.
- 3.Executive Engineer (Zone -VIII)
Corporation of Chennai
Chennai.
- 4.Assistant Executive Engineer/U-21
Corporation of Chennai
Chennai.
- 5.Assistant Engineer /DN-94
Corporation of Chennai
Chennai.

... Respondents

Petition filed under Article 226 of the Constitution of India, seeking to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned Notice



No.Z.08/C.No/058/2020 dated 22.12.2020 affixed at the outer door of the Petitioner premises at 24.07.2021 under Section 56 and 57 read with Section 85 of the Town and Country Planning Act and issued by the Respondents 3 to 5 herein and quash the same and consequently issue appropriate directions directing the Respondents herein and their subordinates, not to proceed with Lock and Seal of the Petitioner commercial premises in Door No. 2/2, M.T.H. Road, Ramakrishnapuram, Villivakkam, Chennai - 600 092, pending statutory appeal filed before the First Respondent herein under Section 80-A of the Town and Country Planning Act on 31.07.2021 and received on 03.08.2021.

For Petitioner : Mr. P.Arivudai Nambi

For Respondents : Mrs. R.Anitha
State Government Counsel (For R1)
Mr. K.Raja Srinivas (For R2 to R5)

W.P. No. 17483 of 2021:-

Dinesh Kumar

Vs.

... Petitioner

1.The Principal Secretary to Government
Housing and Urban Development Department
Fort St. George Secretariat, Chennai - 600 009.

2.Member Secretary
C.M.D.A.
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road
Egmore, Chennai - 8.

3.The Commissioner
Greater Chennai Corporation
Chennai - 600 003.

4.The Executive Engineer
Works Department
Greater Chennai Corporation
Amma Maligai, 5th Floor
C-Wing, Chennai - 600 003.

... Respondents

Petition filed under Article 226 of the Constitution of India, seeking to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned Notice/Letter No. W.D.C. No.D2/RC/WDCN08/00024/2020 dated 22.02.2021 and quash the same and consequently issue appropriate directions directing the Respondents herein and their subordinates, not to proceed with Lock and Seal of the Petitioner's premises bearing Door



No.2/2, M.T.H. Road, Ramakrishnapuram, Villivakkam, Chennai - 600 092, pending statutory appeal filed before the First Respondent herein under Section 79 of the Town and Country Planning Act on 09.07.2021 and received on 10.07.2021.

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For Petitioner : Mr. P.Arivudai Nambi
For Respondents : Mrs. R.Anitha
State Government Counsel (For R1)
Mr. K.Raja Srinivas (For R3 & R4)
Mr. P.S.Ganesh (For R2)

C O M M O N O R D E R

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

These matters have been heard through "Video Conference".

2. When these matters are called today, Learned Counsel appearing for Parties represented that in respect of similar matter, i.e. adjacent property of the Petition premises, this Court already passed an order dated 12.08.2021 in W.P. No. 16736 of 2021, which reads as follows:-

"2. The Petitioners have come before this Court seeking Writ of Certiorarified Mandamus, calling for the records relating to the De-occupation Notice dated 09.11.2020 in reference no.Z.08.C.No./048/2020 issued by the Respondents 2, 3 and 4 in respect of the Petitioners' property bearing Door No.1, New No.2, MTH Road, Villivakkam, Chennai - 600 049 and quash the same by further directing the Corporation authorities not to interfere with the Petitioners' building as they did not violate any of the above provisions under the Tamil Nadu Town and Country Planning Act.

3. The Petitioners jointly own the property bearing Door No.1, New No.2 situated at MTH Road, Villivakkam, Chennai - 49 and let out the building to M/s.Ganapathy Bhavan. Since some of the portions of the building has got damaged, alteration works have been carried out in the said building without involving any masonry work. However, on the basis of false complaints, the Respondents have issued locking & sealing and demolition notice dated 09.10.2020 and de-occupation notice dated 09.11.2020. The First Petitioner has given reply to the said notices on 22.10.2020 and on 18.11.2021.



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Moreover, an Appeal has been filed against the de-occupation notice dated 09.11.2020 before the Secretary to Government, Housing and Urban Development Department under Sections 79, 80A and 113C of the Tamil Nadu Town and Country Planning Act and the same is pending. After having filed the Appeal, the petitioners have come before this Court challenging the said de-occupation notice.

4. Heard Mr.R.Manickavel, Learned Counsel for the Petitioners and Mr.K.Raja Shrinivas, Learned Standing Counsel for the Respondents 1 to 4.

5. Since the First Petitioner has filed an Appeal against the impugned notice before the Secretary to Government, Housing and Urban Development Department, this Court, suo motu, impleads, "The Government of Tamil Nadu, Represented by its Secretary, Housing and Urban Development Department, Secretariat, Fort St.George, Chennai", as Fifth Respondent to the proceedings and Mrs.R.Anitha, Learned Government Advocate takes notice on behalf of the newly impleaded Respondent.

6. The Petitioners would contend that after selling portion of the property to the School, three story building has been constructed by the School out of the sale transaction between the School and the Petitioners and it has been utilized by the School, the Petitioners would contend. Be that as it may. Since the petitioners have come before this Court challenging the de-occupation notice dated 09.11.2020 and an Appeal has been filed under Sections 79, 80A and 113C of the Tamil Nadu Town and Country Planning Act against the said notice and the same is pending before the newly impleaded Fifth Respondent, this Court directs the Fifth Respondent to dispose of the said Appeal on merits as per law, after giving opportunity to the Petitioners and the person who gave complaint against the petitioners' construction at the earliest. Till the Appeal is disposed, no coercive steps shall be taken against the Petitioners.

7. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous petitions are closed."

In the same line, the First Respondent is directed to dispose of Appeals filed by the Petitioners against the impugned



Notice/Letter, after giving sufficient opportunity of hearing to the Petitioners, within a period of six months from the date of receipt of a copy of this order. Based on the decision taken in the Appeals, the Respondents shall proceed against the Petitioners. Till the Appeals are disposed, no coercive steps shall be taken against the Petitioners.

3. With above directions, these Writ Petitions are disposed of. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Maya

To

- 1.The Principal Secretary to Government
Housing and Urban Development Department
Fort St. George Secretariat, Chennai - 600 009.
- 2.Member Secretary
C.M.D.A.
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road
Egmore, Chennai - 8.
- 3.The Commissioner
Greater Chennai Corporation
Chennai - 600 003.
- 4.Executive Engineer (Zone -VIII)
Corporation of Chennai
Chennai.
- 5.Assistant Executive Engineer/U-21
Corporation of Chennai
Chennai.
- 6.Assistant Engineer /DN-94
Corporation of Chennai
Chennai.



7.The Executive Engineer
Works Department
Greater Chennai Corporation
Amma Maligai, 5th Floor
C-Wing, Chennai - 600 003.

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+2ccs to Mr.K.Raja Shrinivas, Advocate Sr Nos 42117, 42119
+1cc to government Pleader Sr Nos 42076 & 42077
+2ccs to Mr.P.Arivudai Nambi, Advocate Sr No 41298 & 41299

W.P. Nos. 17479 & 17483 of 2021

PMK (CO)
PR (16/09/2021)