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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 08.10.2021

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P.No.21584 of 2021
and W.M.P.Nos.22784 & 22785 of 2021

G.K.Balachandran

...Petitioner

-vs-

1.Secretary to Government
Housing and Urban Development
Fort St.George
Chennai - 600 009.

2.The Commissioner
Corporation of Chennai
Ripon Building, Chennai - 3.

3.The Executive Engineer
Zone V, Corporation of Chennai
61, Basin Bridge Road
Chennai - 600 021.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the 3rd respondent made in De-occupation notice in letter No.05/03514/1/2017 dated 24.08.2017 signed and issued by the respondent on 24.08.2021 relating to property at No.14/27, Muniyappan street, Kondithope, Chennai - 600 079, and quash the same as illegal and arbitrary and non-est in law and consequently, forbear the 2nd respondent from lock and sealing of the property.

For petitioner : Mr.B.Vijay

For respondents: Ms.Akhila Rajendran, GA
for R1

Mr.Raja Srinivas

Senior Standing Counsel for R2&R3



ORDER

(Order of the Court was made by K.KALYANASUNDARAM, J.,)

Heard Mr.B.Vijay, learned counsel for the petitioner; Ms.Akhila Rajendran, learned Government Advocate for R1 and Mr.Raja Srinivas, learned Senior Standing Counsel for the respondents 2 and 3.

2.This writ petition has been filed to quash the De-occupation notice dated 24.08.2017 letter No.05/03514/1/2017 issued by the 3rd respondent dated 24.08.2021, relating to the property situated at No.14/27, Muniyappan street, Kondithope, Chennai - 600 079.

3.The learned counsel for the petitioner would state that the property was purchased by the petitioner's mother vide sale deed dated 17.02.1995 and thereafter settled in favour of the petitioner by a deed of settlement dated 02.04.2007. He would further state that the building was constructed according to the approved plan, but, the respondents 2 and 3 have initiated action, as if there is deviation/unauthorised construction. Challenging the lock and seal notice dated 24.08.2021, the petitioner has preferred an appeal before the 1st respondent, however, it is dismissed on 10.02.2020. Thereafter, the respondent has issued a De-occupation notice, which is also challenged by the petitioner by filing Statutory Special Revision under Section 80A of the Act. When the appeal is pending, the respondents are proceeding to demolish the super-structure. Hence, this writ petition.

4.The learned Senior Standing Counsel appearing for the respondents 2 and 3 would state that the petitioner cannot challenge the De-occupation notice before two different forums and hence, the present writ petition is not maintainable.

5.We find force in the submissions of the learned counsel for the respondents 2 and 3 and hence we are not inclined to entertain this writ petition.

6.However, considering the facts and circumstances of this case, the 1st respondent is hereby directed to dispose of the Special Revision preferred by the petitioner on 09.09.2021, on merits and in accordance with law, after providing opportunity to all the necessary parties. Till then, the respondents are hereby directed to maintain status quo, as on date.



7. Accordingly, this writ petition is disposed of. No costs.
Consequently connected miscellaneous petitions are closed.

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s/d-
Assistant Registrar (CS-VIII)

True Copy

Sub-Assistant Registrar

Jer

To

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

2. The Commissioner
Corporation of Chennai
Ripon Building, Chennai - 3.

3. The Executive Engineer
Zone V, Corporation of Chennai
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+1 CC to Mr. K. Raja Srinivas, Advocate sr 53404.

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KSM(CO)
SP(01/11/2021)