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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 20.12.2021

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

W.P.NO.27128 OF 2021
AND
W.M.P.NO.28600 OF 2021

S.Vinoth Kumar

... Petitioner

.Vs.

1. The Commissioner,
Greater Chennai Corporation,
Ripon Buildings,
Chennai - 600 003.
2. The Executive Engineer,
Zone VI (Thiru-Vi-Ka Nagar),
No.5, Anderson Road,
Ayanavaram,
Chennai - 600 023.
3. The Assistant Executive Engineer,
Unit-17, Division - 76,
Greater Chennai Corporation,
No.5, Anderson Road,
Ayanavaram, Chennai - 600 023.
4. The Assistant Engineer,
Division - 76,
Greater Chennai Corporation,
Conron Smith Nagar, Near CR Garden,
Part Street, Chennai - 600 012.
5. The Secretary to Government,
Housing and Urban Development Department,
Fort St. George,
Chennai - 600 009.

(R5 Suo Motu impleaded vide order of
this Court dated 20.12.2021)

... Respondents



PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to 'Lock & Seal and Demolition Notice' dated 21/12/2019 in Letter No.06/00253/2019, issued by the respondents 2 to 4 and quash the same as arbitrary, unjust, whimsical and untenable.

For Petitioner : Mr.C.P.Sivamohan

For Respondents : Mr.K.Raja Srinivas
Senior Standing Counsel
For RR1 to 4

Mr.K.V.Sajeew Kumar
Special Government Pleader
For R5

ORDER

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

Assailing the lock and seal and de-occupation notice dated 21.12.2019, issued by the respondents 2 to 4 and consequential de-occupation notice dated 04.12.2021, the present writ petition has been filed.

2. Mr.C.P.Sivamohan, learned counsel for the petitioner would submit that the petitioner has purchased the subject property under a sale deed dated 04.07.2019 and thereafter he white washed the building and let out the same to 7 tenants for residential purpose. While so, a notice dated 09.12.2019 was issued by the respondents 3 & 4 calling for an approved plan, for which the petitioner has submitted his reply. According to the learned counsel, the official respondents have accepted the reply and assured that they will not take action further.

3. Per contra, the learned Senior Standing Counsel, appearing for the respondents 1 to 4 would state that the petitioner's vendor had got approved plan for construction of ground floor alone, however, two additional floors have been constructed. It is further stated that when the petitioner is having an alternative remedy under Section 80A of the Tamil Nadu Town and Country Planning Act (herein after referred to 'The act'), the present writ petition need not be entertained.



4. We have carefully considered the submissions and perused the materials available on record.

5. It is the specific case of the petitioner that for the notice issued under Sections 56 and 57 read with Section 85 of the act, he submitted a reply and the same was accepted by the respondents. On the other hand, the learned Senior Standing Counsel argued that the 1st and 2nd floors of the building are constructed by deviating the approved plan. He disputed the statement of the learned counsel for the petitioner that the official respondents have accepted the explanation submitted by the petitioner and did not take action for a period of two years.

6. However, considering the facts and circumstances of this case we hereby direct the petitioner to file a special revision under Section 80A of the Act, within a period of four weeks. If special revision is filed within the time, the 5th respondent shall entertain the same and dispose it on merits and in accordance with law, after affording an opportunity of hearing to the petitioner. Till such time, the respondents shall not take coercive action.

7. With the above direction, this writ petition is disposed of. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
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Zone VI (Thiru-Vi-Ka Nagar)
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5. The Secretary to Government,
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Chennai - 600 009.

+2ccs to Mr.C.P.Sivamohan, Advocate, S.R.No.68162

W.P.NO.27128 OF 2021

BR(CO)
PBS/03/01/2022