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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.Nos.442, 3007 and 3806 of 2022 & 9138 of 2021

W.P.No.442 of 2022

L.B.Senthil Kumar

... Petitioner

vs

1.The Commissioner,
Corporation of Chennai,
Rippon Building,
No.1131, EVR Periyar Salai,
Chennai - 600 003.

2.Assistant Revenue Officer,
Zone-8, Revenue Department,
Corporation of Chennai,
36-B, Pulla Avenue,
Shenoy Nagar,
Chennai - 600 030.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the second respondent to consider the representation vide letter dated 15.07.2021 to remove the seal and hand over the building situated at Block No.38, Flat No.38 D, Old No.AB-125, New No.AB-126, 4th Avenue, Shanthi Colony, Anna Nagar, Chennai - 600 040 to the petitioner.

For Petitioner : Mr.N.S.Thanu Madhan

For Respondents: M/s.K.Raja Shrinivas
Standing Counsel
for Chennai Corporation

W.P.No.3007 of 2022

L.B.Senthil Kumar

... Petitioner



vs

1.The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Chennai - 600 008.

2.The Commissioner,
Corporation of Chennai,
Rippon Building,
No.1131, EVR Periyar Salai,
Chennai - 600 003.

3.The Executive Engineer,
Zone-8, Revenue Department,
Corporation of Chennai,
36-B, Pulla Avenue,
Shenoy Nagar,
Chennai - 600 030.

4.A.R.Sujatha

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondents 1 to 3 to demolish the illegal construction and dismantle the out house along with compound wall illegally built in the set back/Common/Open area at Block No.38, Flat No.B, Ground Floor, Old No.AB - 123, New No.AB - 128, 4th Avenue, Shanthi Colony, Anna Nagar, Chennai - 600 040, pursuant to the Locking and Sealing and demolition Notice No.Region Central/TPENF2471/2018, dated 05.04.2018 of the Corporation of Chennai issued against the fourth respondent, consequently considering the petitioner's representation dated 10.09.2021.

For Petitioner : Mr.N.S.Thanu Madhan

For Respondent 1 : Mrs.C.Sumathy
Standing Counsel

For Respondents 2 & 3 : M/s.K.Raja Shrinivas
Standing Counsel
for Chennai Corporation

For Respondent 4 : Mr.N.Kishore Kumar

W.P.No.3806 of 2022

L.B.Senthil Kumar

... Petitioner



vs

1.The Additional Secretary (Technical),
Housing and Urban Development Department,
Secretariat,
Chennai - 600 009.

2.The Member Secretary,
Chennai Metropolitan Development Authority,
Chennai - 600 008.

3.The Commissioner,
Corporation of Chennai,
Rippon Building,
No.1131, EVR Periyar Salai,
Chennai - 600 003.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the Appeal Order letter dated 24.01.2020 (Signed on 02.11.2020) vide Appeal Order Letter No.12104/UD-VI(2)/2018-2 issued by the first respondent herein and quash the same and consequently direct the first respondent to reconsider the petitioner's appeal under Section 80A of TNT and CP Act, 1971 for the building situated at Block No.38, Flat No.38 D, Old No.AB - 125, New No.AB - 126, 4th Avenue, Shanthi Colony, Anna Nagar, Chennai - 600 040.

For Petitioner	:	Mr.N.S.Thanu Madhan
For Respondent 1	:	Mrs.K.V.Sajeev Kumar Special Government Pleader
For Respondent 2	:	Mrs.C.Sumathy Standing Counsel
For Respondents 3	:	Mr.K.Raja Shrinivas Standing Counsel for Chennai Corporation

W.P.No.9138 of 2021

A.R.Sujatha

... Petitioner

vs



1.Chennai Metropolitan Development Authority,
Represented by its Member Secretary,
'Thalamuthu Natarajan Maaligai'
No.1, Gandhi Irwin Road,
Egmore,
Chennai - 600 008.

2.Corporation of Chennai,
Represented by its Commissioner,
Rippon Buildings,
No.1131, EVR Periyar Salai,
Park Town,
Chennai - 600 003.

3.The Zonal Officer,
Zone-8, Corporation of Chennai,
No.36B, II Cross Street,
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.

4.The Executive Engineer,
Zone-8, Corporation of Chennai,
36-B, II Cross Street,
Pulla Avenue,
Shenoy Nagar,
Chennai - 600 030.

5.L.B.Senthil Kumar

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondents 1 to 4 to demolish the unauthorised and illegal construction and dismantle the sheds put in the common open terrace at AB - 126 (Old Door Nos.AB-125 & 38D), 4th Avenue, Shanthi Colony, Anna Nagar, Chennai - 600 040, pursuant to their Notice No.Region Central/TPENF/1810/2018, dated 17.05.2018 of the Corporation of Chennai issued against the fifth respondent.

For Petitioner : Mr.N.Kishore Kumar

For Respondent 1 : Mrs.P.Veena Suresh
Standing Counsel

For Respondents 2 to 4 : M/s.K.Raja Shrinivas
Standing Counsel
for Chennai Corporation



COMMON ORDER

[Order of this Court was delivered by T.RAJA, J.]

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In view of the fact that the issue involved in all the above Writ Petitions are one and the same, the same are taken up together and disposed of by this Common Order.

2. Writ Petition No.442 of 2022 has been filed by Mr.L.B.Senthil Kumar seeking issuance of Writ of Mandamus under Article 226 of the Constitution of India to direct the second respondent to consider the representation dated 15.07.2021 to remove the seal and to hand over him the building situated at Block No.38, Flat No.38 D, Old No.AB-125, New No.AB-126, 4th Avenue, Shanthi Colony, Anna Nagar, Chennai - 600 040.

3.W.P.No.3007 of 2022 also has been filed by Mr.L.B.Senthil Kumar seeking issuance of Writ of Mandamus under Article 226 of the Constitution of India to direct the respondents 1 to 3 to demolish the illegal construction and dismantle the out house along with compound wall illegally built in the set back/Common/Open area at Block No.38, Flat No.B, Ground Floor, Old No.AB - 123, New No.AB - 128, 4th Avenue, Shanthi Colony, Anna Nagar, Chennai - 600 040, pursuant to the Locking and Sealing and demolition Notice No.Region Central/TPENF2471/2018, dated 05.04.2018 of the Corporation of Chennai issued against the fourth respondent, consequently considering the petitioner's representation dated 10.09.2021.

4.Yet another Writ Petition in W.P.No.3806 of 2022 has been filed by Mr.L.b.Senthil Kumar seeking issuance of Writ of Certiorarified Mandamus calling for the records of the Appeal Order letter dated 24.01.2020 (Signed on 02.11.2020) vide Appeal Order Letter No.12104/UD-VI(2)/2018-2 issued by the first respondent herein and quash the same and consequently direct the first respondent to reconsider the petitioner's appeal under Section 80A of TNT and CP Act, 1971 for the building situated at Block No.38, Flat No.38 D, Old No.AB - 125, New No.AB - 126, 4th Avenue, Shanthi Colony, Anna Nagar, Chennai - 600 040.

5.One Mrs.A.R.Sujatha, W/o.Nandakumar residing at No.AA-106, Shanthi Colony, Anna Nagar, Chennai, has filed W.P.No.9138 of 2021 seeking issuance Writ of Mandamus directing the respondents 1 to 4 to demolish the unauthorised and illegal construction and dismantle the sheds put in the common open



terrace at AB - 126 (Old Door Nos.AB-125 & 38D), 4th Avenue, Shanthi Colony, Anna Nagar, Chennai - 600 040, pursuant to their Notice No.Region Central/TPENF/1810/2018, dated 17.05.2018 of the Corporation of Chennai issued against the fifth respondent.

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6.It is the case of the petitioner in W.P.Nos.442, 3007 and 3806 of 2022 that the property situate at New Door No.AB-126, 4th Avenue Shanthi Colony, Anna Nagar, Chennai - 600 040 has been let out to the tenant namely M/s.Kongunattu Thothathu Virunthu Restaurant for rent of Rs.3,50,000/- as per the agreement dated 01.09.2019 for a period of 33 months. The petitioner sent a letter to partners of M/s.Kongunattu Thothathu Virunthu Restaurant on 21.02.2020 for making adjustment of Rs.25,00,000/- rental arrears and they have also acknowledged Rs.25,00,000/-. But the petitioner's tenants have sent a false claim on 07.01.2021 and this has been refuted by the petitioner. After some time, the petitioner came to know that the second respondent has sealed the premises, due to his tenant failing to obtain Trade Licence. The second respondent after some time has opened the seal on 02.02.2021 and allowed the tenant to take away all furniture and fittings along with equipments and once again sealed the premises. Now the petitioner's tenant have vacated the premises. Therefore, the petitioner wants to restore the building to its original position from commercial use to residential houses. For which, a request has been made to the second respondent to remove the seal and hand over the buildings to him. He has also filed an affidavit dated 4th March 2022 in which he has stated that the petitioner is prepared to restore the building situated at Block No.38, Flat No.38 D, Old No.AB - 125, New No.AB - 126, 4th Avenue, Shanthi Colony, Anna Nagar, Chennai - 600 040 to the original position as per the approved corporation plan and would not let out for any commercial activity and he would use the properties in question only for residential purpose as permitted by law. But the second respondent has given a reply dated 24.01.2022 that after disposal of the Writ Petition Nos.29936 of 2019 and W.P.No.2304 of 2020, they would consider the request for removal of seal and further hand over the building to the petitioner. The petitioner has also stated that Writ Petition No.3073 of 2022 challenging the return of his building plan approval application dated 19.12.2019 vide respondent's letter dated 06.01.2020 and to reconsider the same which is also pending. He has also filed another Writ Petition No.3806 of 2022 challenging the order dated 24.01.2020 passed in the appeal by the Additional Secretary (Technical), Housing and Urban Development Department, and to reconsider the same.



7.Mr.Raja Shrinivas, learned Standing Counsel appearing for the respondents stated that the Executive Engineer of Zone-VIII of the Revenue Department, Corporation of Chennai, is the competent authority to consider the representation of the petitioner dated 15.07.2021 and 10.09.2021 in the respective writ petitions.

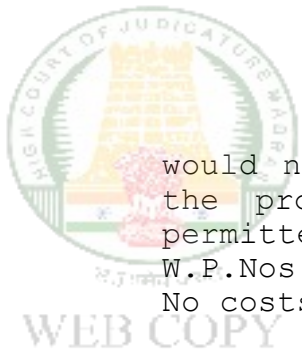
8.Learned Counsel for the petitioner submitted that while considering the representations of the petitioner dated 15.07.2021 and 10.09.2021, the affidavit of the petitioner filed before this Court on 04th March, 2022 may also be taken into account by the Executive Engineer, Zone-8, Corporation of Chennai.

9.Mr.N.Kishore Kumar, leaned Counsel appearing for the petitioner in W.P.No.9138 of 2021 vehemently objected the submissions made by the learned Counsel for the petitioner in W.P.Nos.442, 3007 and 3806 of 2022 stating that it will be very difficult for the petitioner to restore the building back to its original position and even dismantling unauthorised construction of ground, first and second floors.

10.Considering the facts and circumstances of the case, without going into the merits of the matter, we direct the Executive Engineer, Zone-8, Corporation of Chennai to consider the representations dated 15.07.2021 and 10.09.2021 made by the petitioner in W.P.Nos.442 and 3007 of 2022 along with the affidavit filed before this Court on 04th March, 2022 and pass appropriate orders within a period of two weeks from the date of receipt of a copy of this order, after affording an opportunity of hearing to the petitioner in W.P.No.9139 of 2021. The petitioner in W.P.Nos.442 and 3007 of 2022 is also directed to submit the copy of the affidavit filed by him before this Court on 04th March, 2022 forthwith.

11.With the above directions, W.P.Nos.442 and 3007 of 2022 are disposed of.

12.Since Mr.L.B.Senthil Kumar/petitioner in W.P.No.3806 of 2022 has filed affidavit before this Court on 04th March, 2022 in W.P.No.442 of 2022 undertaking to restore the building situated at Block No.38, Flat No.38 D, Old No.AB - 125, New No.AB - 126, 4th Avenue, Shanthi Colony, Anna Nagar, Chennai - 600 040 to its original position, as per the approved corporation plan and



would not let out for any commercial activity and he would use the properties in question only for residential purpose as permitted by law, nothing survives in the Writ Petitions in W.P.Nos.9138 of 2021 and 3806 of 2022 and the same are closed. No costs.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

srm

To

1. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Chennai - 600 008.
2. The Commissioner,
Corporation of Chennai,
Rippon Building,
No.1131, EVR Periyar Salai,
Chennai - 600 003.
3. The Executive Engineer,
Zone-8, Revenue Department,
Corporation of Chennai,
36-B, Pulla Avenue,
Shenoy Nagar,
Chennai - 600 030.
4. The Additional Secretary (Technical),
Housing and Urban Development Department,
Secretariat,
Chennai - 600 009.
5. The Zonal Officer,
Zone-8, Corporation of Chennai,
No.36B, II Cross Street,
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.



6. The Assistant Revenue Officer,
Zone-8, Revenue Department,
Corporation of Chennai,
36-B, Pulla Avenue,
Shenoy Nagar,
Chennai - 600 030.

+4ccs to Mr.K.Rajashrinivas, Advocate SR.No.15984, 15985, 15986,
15987

+2ccs to Mr.N.Kishore Kumar, Advocate SR.No.15699, 15698

+1cc to M/s.P.Veena Suresh, Advocate SR.No.15461

W.P.Nos.442, 3007 and 3806 of 2022 & 9138 of 2021

KJ(CO)
GMY(10/05/2022)