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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.9281 of 2022 and WMP.No.9038 of 2022

Prabhakaran

... Petitioner

-vs-

- 1.The Commissioner,
Greater Chennai Corporation,
Ripon Buildings, Chennai.
- 2.The Zonal Officer - Zone VIII,
Greater Chennai Corporation,
No.36B, Pulla Avenue Road,
Shenoy Nagar, Chennai-600 030.
- 3.Assistant Executive Engineer,
Zone-VIII, Unit 22,
Greater Chennai Corporation,
No.36B, Pulla Avenue Road,
Shenoy Nagar, Chennai-600 030.
- 4.Dr.V.Muthulakshmi

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Certiorari, calling for the records of the impugned order issued by the 3rd respondent in Proceedings No.Zone VIII/TPENF/426/2022 dated 23.03.2022 and quash the same.

For Petitioner : Mr.R.N.Amarnath

For Respondents : Mr.K.Raja Shrinivas
1 to 3



ORDER

(Order of the Court was made by T.RAJA, J.)

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Challenging the impugned order issued by the 3rd respondent in Proceedings No.Zone VIII/TPENF/426/2022 dated 23.03.2022 and for quashing of the same, the present Writ Petition has been filed.

2. Learned Counsel appearing for the petitioner assailing the impugned order would submit that the impugned order passed by the 3rd respondent is in complete collusion with the 4th respondent landlord who miserably failed to evict the petitioner in the Rent Control Proceedings. Therefore, the indirect mode of evicting the petitioner from the place-in-question is unfair and unjustifiable, hence, the same is liable to be interfered with. Arguing further, the learned Counsel submitted that originally, a portion of the building was leased out for garage. Subsequently, during the year 2005, the petitioner was asked by the 4th respondent to shift the garage to the shop portion. Accordingly, he has shifted and carrying on the business in a portion at Old No.F.192, New No.23/1, 1st Street, F Block, Anna Nagar, Chennai-600 102 from the year 2005 onwards. While so, on 05.07.2006, when the petitioner and his brother were summoned by K.4 Police Station at the instigation of the 4th respondent's husband, the petitioner was forced to sign in a blank stamp paper. The contents of the stamp paper and the same were used against the petitioner subsequently in the Rent Control Proceedings. The 4th respondent's husband along with the police threatened the petitioner to evict the premises-in-question on 10.07.2006. Immediately, the petitioner filed O.S.No.5877/2006 against the 4th respondent's husband on the file of the learned I Assistant Judge, City Civil Court, Chennai. The said suit was decreed on 21.04.2008. Thereafter, the 4th respondent's husband filed two R.C.O.Ps. Namely, R.C.O.P.Nos.1222/2006 and 1225/2006 before the learned XIII Small Causes Court, Chennai. RCOP.No.1222/2006 is for fixation for fair rent whereas RCOP.No.1225/2006 is for willful default and demolition and reconstruction and in RCOP.No.1222/2006, fair rent was fixed. As against the same, the petitioner herein filed an appeal and got modified the order of the learned Rent Controller. As per the order of the Appellate Authority, the fair rent was fixed at Rs.10,700/- p.m. and the 4th respondent suo motu increased the rent to Rs.25,000/- in order to create a ground for eviction under the Tamil Nadu Regulation of Rights and Liabilities of Landlords and Tenants Act, 2017 and the RCOP.No.1225/2006 filed by the 4th respondent's husband was dismissed for default. Now the 4th respondent is attempting to dispossess the petitioner through extra judicial way.



3. Mr.K.Raja Shrinivas, learned Standing Counsel taking notice for the respondents 1 to 3 would submit that when the building-in-question is unapproved and no planning permission whatsoever has been obtained for the same, the respondent Chennai Corporation is legally and lawfully entitled to serve notice either on the occupier or landlord. In the present case, since the petitioner is in unauthorized occupation of the building-in-question, a notice dated 23.03.2022 was issued under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971, calling upon him to produce the approved plan which has not been till date produced. Though the learned Counsel for the petitioner submitted that he has produced the planning permission before the Rent Control Proceedings, it is not known why the same has not produced before the respondent Corporation.

4. We are also in full agreement with the said submissions of the learned Standing Counsel for the respondent Corporation. Though the learned counsel for the petitioner has submitted that the approved plan has been marked as an Exhibit before the Rent Control Proceedings, it is not known why he has not produced the Planning Permission before Chennai Corporation and also before us. Secondly, when the petitioner is a tenant in the building-in-question, he has no locus standi to approach this Court by filing the present Writ Petition. Thirdly, it is also admitted that the petitioner has not produced the approved plan before the Rent Controller only the xerox copy was produced. Therefore, when the petitioner is not in possession of the approved plan, the respondents are right in serving the impugned notice. Hence, we find no merits in the present Writ Petition.

5. In the result, the Writ Petition fails and the same is accordingly dismissed. 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,
Greater Chennai Corporation,
Ripon Buildings, Chennai.



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Shenoy Nagar,
Chennai-600 030.

+1cc to Mr.K.Raja Shrinivas, Advocate SR. No. 26601

+1cc to Mr.R.N.Amarnath, Advocate SR. No. 26856

W.P.No.9281 of 2022

SVI (CO)
PR (02/05/2022)