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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28/4/2022

C O R A M

THE HON'BLE MR. JUSTICE T.RAJA
A N D
THE HON'BLE MR.JUSTICE S.SOUNTHAR

W.P.NO.9552 OF 2022
A N D
W.M.P.NO.9290 OF 2022

B. Kasi Viswanathan

... Petitioner

Vs

1. The Additional Secretary (Technical)
Housing & Urban Development Department
Secretariat
Chennai 600 009.
2. The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Buildings
Egmore
Chennai 600 008.
3. The Commissioner
Corporation of Chennai
Rippon Buildings
Chennai 600 003.
4. The Executive Engineer - zone 05
Greater Chennai Corporation
No.105 Basin Bridge Road
Royapuram
Chennai 600 079.
5. The Assistant Executive Engineer
- Unit 14
Greater Chennai Corporation
No.2 Adhikesavalu Street
Chintadripet
Chennai 600 002.



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6. The Assistant Engineer - Division 59
No.2 Memorial Hall Street
Park Town
Chennai 600 003.

... Respondents

PRAYER:

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari to call for the records relating to the order passed by the respondents 4 to 6 in Letter No.05/04587/1/2022 dated 31/3/2022 and quash the same.

For Petitioner .. Ms.S.P.Arthi

For Respondents .. Mr.K.V.Sajeev Kumar
Special Government Pleader
for R.1

M/s.P.Veena Suresh
Standing Counsel for R.2.

Mr.K.Rajasekaran
for R.R.3 to 6.

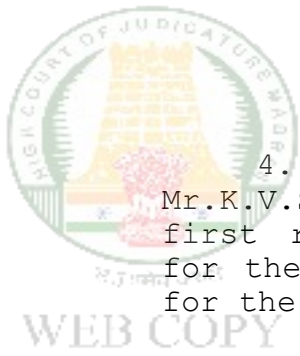
O R D E R

(Order of this Court was delivered by T.RAJA,J.)

Mr.B.Kasi Viswanathan, S/o. Late Bommisetty Mallikarjunudu, a resident of Old No.16, New No.31, Arumugam Street, Sowcarpet, Chennai, has been issued with a impugned de-occupation notice, dated 31/3/2022, stating that building, at Old No.16, New No.31, Arumugam Street, Sowcarpet, Chennai, is a deviated one. Therefore, lock and seal notice, dated 8/10/2010, with 30 days time limit was served. Assailing the same, present writ petition has been filed.

2. Learned counsel for the petitioner further submitted that the Deoccupation notice, dated 31/3/2022, has been issued, without prior notice, viz., calling upon the petitioner to produce planning permission followed by lock and seal notice. Hence, the Deoccupation notice is not maintainable.

3. Learned counsel appearing for the petitioner submitted that when no inspection was carried out by the respondents 4 to 6, it is not open to the respondents to come to a conclusion that the petitioner's construction is a deviated one.



4. Heard Ms.S.P.Arthi, learned counsel for the petitioner, Mr.K.V.Sajeevkumar, learned Special Government Pleader for the first respondent, Mr.P.Veera Suresh, learned Standing Counsel for the second respondent and Mr.K.Rajasekaran, learned counsel for the respondents 3 to 6.

5. On instruction, Mr.K.V.Sajeev Kumar, learned Special Government Pleader appearing for the first respondent, submitted that the present deoccupation notice may be treated as pre notice, calling upon the petitioner to produce the planning permission.

6. In view of the above, the impugned deoccupation notice shall be treated as notice, calling upon the petitioner to produce the planning permission. Accordingly, petitioner is directed to produce all the relevant documents showing that the petitioner has obtained planning permission before putting up the construction, within a period of two weeks, from today. On receipt of the same, with explanation, if any, the respondents are hereby directed to do the needful, within a period of two weeks thereafter.

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

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The Additional Secretary (Technical)
Housing & Urban Development Department
Secretariat, Chennai 600 009.
2. The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Buildings, Egmore, Chennai 600 008.
3. The Commissioner, Corporation of Chennai
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4. The Executive Engineer - zone 05,
Greater Chennai Corporation
No.105 Basin Bridge Road, Royapuram, Chennai 600 079.
5. The Assistant Executive Engineer - Unit 14
Greater Chennai Corporation, No.2 Adhikesavalu Street
Chintadripet, Chennai 600 002.
6. The Assistant Engineer - Division 59,
No.2 Memorial Hall Street
Park Town, Chennai 600 003.

+1cc to M/s.P.Veena Suresh, Advocate, S.R.No.30159
+1cc to Mr.K.Rajasekaran, Advocate, S.R.No.29510
+1cc to the Government Pleader, S.R.No.30933

W.P.No.9552 of 2022

AD(CO)
SB/26/05/2022