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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.04.2022

Coram:

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

W.P.No.9595 of 2022  
and  
W.M.P.Nos.9330 and 9331 of 2022

1. Mrs.Suguna Pushpalingam,
  2. Pushpalingam, ...Petitioners
- Vs.
1. The Executive Engineer,  
TP (Enforcement),  
Corporation of Chennai,  
Regional Joint Commissioner(South)  
Office (Enforcement Cell),  
Adyar, Chennai-20.
  2. The Chairman,  
Tamil Nadu Slum Clearance Board,  
No.5, Kamarajar Salai,  
Chennai-5. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records pertaining to the impugned proceedings, vide Notice No.Div.176/022/2019, dated 03.01.2022 by the first respondent and to quash the same.

For petitioner : Mr.V.Manohar

For respondents : Mr.K.Raja Shrinivas,  
Standing Counsel for R-1

Mr.M.Rajasekar,  
Standing Counsel for R-2

ORDER

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

The petitioners have come up with this Writ Petition praying for issuance of a Writ of Certiorari to call for the records pertaining to the impugned notice in Notice No.Div.176/022/2019,



dated 03.01.2022 by the first respondent and to quash the same.

2. The case of the petitioners, in a nut-shell, is as follows:

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(a) The petitioners were the original allottees of a tenement developed by the Tamil Nadu Slum Clearance Board at the address of Olcottkuppam, Thiruvalluvar Nagar, Besant Nagar, Chennai-600 090. There are about 140 houses developed therein and on payment of instalments, the sale deed was executed in favour of the petitioners on 04.08.2014, which was registered as Document No.1876/2014 to vest the right with regard to the tenement No.A/4 in Survey Nos.167 Part and 168 part in the said Village. The tenements are promoted and allotted by the Tamil Nadu Slum Clearance Board.

(b) The petitioners are stating to be in peaceful continuous possession till the ground floor owner of the tenement raised an issue against the petitioners, leading to filing of Civil Suit before the City Civil Court in O.S.No.6456 of 2014.

(c) While the said suit was pending, the ground floor owner living in tenement No.A2 of the area, made numerous complaints to the Corporation of Chennai and Chennai Metropolitan Development Authority (CMDA) against the petitioners, resulting in service of notice on the petitioners stating that the petitioners have committed violation of construction in their tenement. Hence, the second petitioner herein has earlier approached this Court in W.P.No.28490 of 2017, in which, a Division Bench of this Court, by order dated 08.11.2017, observed as follows:

"8. This Court, taking into consideration the limited scope of the prayer sought for by the petitioner and without going into the merits of the claim projected by him either in the appeal/special revision petition or in this writ petition, directs the first respondent to entertain the said appeal/special revision if the papers are otherwise in order and either the 1st respondent or the delegated official is to take up the petition for stay initially and give a disposal in accordance with law within a period of four weeks from the date of receipt of a copy of this order and they are also at liberty to take up the main appeal/special revision itself and give a disposal in accordance with law as expeditiously as possible. The respondents 2



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to 5, till the disposal of the petition for stay by the 1st respondent/delegated official, shall defer further proceedings in terms of the impugned notice dated 26.10.2017 of the 3rd respondent. It is also made clear that the petitioner, till the disposal of the appeal/special revision by the 1st respondent/delegated official, shall not create any third party rights in respect of the land and superstructure in question and shall also not alter the physical features of the same.

9. The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed."

(d) The petitioners' premises at Building at Door No.A/4, Thiruvalluvar Nagar, 5th Avenue, Besant Nagar, Chennai-600 090, in Division - 176, Zone -13, is alleged to have been constructed unauthorisedly and that as per the impugned notice, dated 03.01.2022, the lock and seal notice has already been issued on 17.03.2015 with 30 days' time limit and hence, further enforcement action has been taken under the provisions of the Tamil Nadu Town and Country Planning Act, 1971, as stated infra, to de-occupy the premises in question within 15 days from the date of receipt of the impugned notice and that the de-occupation notice was also already issued on 30.05.2019 as per the averment made in the impugned notice, dated 03.01.2022. It was also made clear in the impugned notice that when once the building in question is sealed, it is the responsibility of the owner/occupier to provide security for such premises, as per the provisions of the Tamil Nadu Town and Country Planning Act, 1971 (as amended by Act 61 of 2008).

(e) It is the averment of the petitioner that the impugned notice issued by the Greater Chennai Corporation, Zone-13, Adyar, Chennai-600 020, in Form No.II (Sections 56-2(A) and 57 read with Section 85 of the Town and Country Planning Act, 1971 (as amended by Act 61 of 2008), dated 03.01.2022, to de-occupy the premises in question, has no bearing or binding within the area of the Slum Clearance Board tenements. Hence, challenging the said notice, dated 03.01.2022, the present Writ Petition is filed.

3. Learned counsel for the petitioner sought time to rectify the alleged deviations and then to give a fresh application for planning permission.



4. Learned Standing Counsel appearing for the first respondent-Corporation of Chennai, took notice and stated that if sufficient time is granted, and if the petitioners are going to rectify the defects/deviations, there will not be any objection on the part of the Greater Chennai Corporation.

5. Accordingly, in view of the above, three months' time from the date of receipt of a copy of this order, is granted to the petitioners to rectify and remove the deviated portions in the premises in question and thereafter, restore back as per the planning permission.

6. It is needless to mention that if the petitioners fail to rectify the deviations/defects in the premises in question, it is open for the first respondent-Greater Chennai Corporation to seal the premises.

7. With the above observations, the Writ Petition is disposed of. No costs. Consequently, W.M.Ps. are closed.

-s/d-  
Assistant Registrar

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Sub-Assistant Registrar

CS

To

1. The Executive Engineer,  
TP (Enforcement),  
Corporation of Chennai,  
Regional Joint Commissioner (South)  
Office (Enforcement Cell),  
Adyar, Chennai-20.

2. The Chairman,  
Tamil Nadu Slum Clearance Board,  
No.5, Kamarajar Salai,  
Chennai-5.

+1cc to Mr.K.Raja Shrinivas, Advocate, S.R.No.30402

W.P.No.9595 of 2022

MG(CO)  
RN(11/05/2022)