



W.P.No.14507 of 2022 and W.M.P. Nos.13709 & 13710 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.14507 of 2022 and W.M.P. Nos.13709 & 13710 of 2022

B.Murugan

.. 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,
Greater Chennai Corporation,
Chennai – 600 003.
- 4.The Executive Engineer,
Zone-X, Greater Chennai Corporation,
No.117, NSK Salai,
Kodambakkam,
Chennai-600 024.
- 5.The Assistant Executive Engineer,
Unit 29, Division – 127,
Greater Chennai Corporation,
Chennai.

6.R.S.Madhavan

.. Respondents



W.P.No.14507 of 2022 and W.M.P. Nos.13709 & 13710 of 2022

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the first respondent's Letter No.3915/UD-VI(2)/2021-4 dated 29.10.2021 and the de-occupation notice dated 30.05.2022 in Notice No.10/00105/2022 of the respondents 3 to 5 in respect of the building at Door No.2/4, Jai Nagar 6th Street, Jai Nagar, Arumbakkam, Chennai-106 and quash the same and consequently direct the respondents to consider the application for regularisation dated 17.02.2020 in respect of the said building at No.2/14, Jai Nagar, 6th Street, Arumbakkam, Chennai-600 106.

For Petitioner : Ms.AL.Ganthimathi

For respondents : Mr.K.V.Sajeev Kumar,
Special Government Pleader for R1

Mr.R.Sivakumar,
Standing Counsel for CMDA for R2

Mr.Raja Shrinivas,
Standing Counsel for
Chennai Corporation/R3 to R5

Mr.R.Thanjan for R6

ORDER

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

The petitioner has filed this writ petition challenging the first respondent's Letter No.3915/UD-VI(2)/2021-4 dated 29.10.2021 and the de-occupation notice dated 30.05.2022 in Notice No.10/00105/2022 issued by respondents 3 to 5 in respect of the building, situated



W.P.No.14507 of 2022 and W.M.P. Nos.13709 & 13710 of 2022

at Door No.2/4, Jai Nagar 6th Street, Jai Nagar, Arumbakkam, Chennai-106 and seeking a direction to respondents 1 to 5 to consider the application for regularisation dated 17.02.2020 in respect of the said building.

2.Learned counsel appearing for the petitioner, assailing the reasons given in the impugned order, submitted that the petitioner's mother Ganga Bai, after purchasing the property, situated at No.2/14, Jai Nagar, 6th Street, Arumbakkam, Chennai 600 106 with an extent of 2700 sq.ft. of land in the year 1965, unfortunately passed away on 03.09.2021 and the petitioner, being her son and one of the legal heirs, inherited the said property, has been residing there with his family by letting out the ground floor for rent. But the petitioner's property consisting of ground plus two floors have been used only for residential purpose and there are two shop portions in the ground floor, facing road, where petitioner's sister and her family are residing. But there was no construction either by way of alteration or by way of new construction after 2007. While so, the sixth respondent, who is the neighbour of the petitioner, has tried to encroach upon his portion and also filed an Original Suit in O.S. No.5925 of 2008 and at the instigation of the sixth respondent, the fifth respondent had sent a



W.P.No.14507 of 2022 and W.M.P. Nos.13709 & 13710 of 2022

stop work notice dated 23.02.2019 under Sections 56(1) and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act 1971 to the petitioner's mother on 23.02.2019. On receipt of the same, the petitioner's mother sent a reply dated 06.03.2019 stating that since new construction activity has not been done in the property, the notice of fifth respondent is improper and that the existing superstructure was constructed more than 12 years prior to the notice. Not being satisfied with her reply dated 06.03.2019 and without even conducting any enquiry, the fifth respondent sent a lock and seal notice dated 27.06.2019 under Sections 56(1) and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971. Thereafter, the de-occupation notice dated 29.10.2019 and another notice dated 23.12.2020 were issued, for which suitable replies were sent by the petitioner's mother. In the meanwhile, the petitioner's mother had applied for regularisation of the building in the property under Reg.2017 scheme for ground floor + 3 floors (part) Commercial-cum-residential building under Section 113-C of the above Act, which is pending for consideration.

3.Learned Special Government Pleader appearing for the first respondent submitted that even in the impugned order, the first



respondent has observed that the said application filed under Section 113-C does not deserve any merit for the reason that the petitioner does not satisfy the parameters of 113-C norms in terms of land use, set back and parking and also not satisfy with the front set back, side set back (West) and the rear set back. Learned Special Government Pleader further submitted that by virtue of the order dated 30.10.2018 passed by the Hon'ble First Bench in W.P. No.27767 of 2018, the regularisation applications will be examined and kept in abeyance and no final order will be passed.

4.Since the petitioner has filed an Application under Section 113-C of the above Act, which is pending for consideration, we are not inclined to entertain this writ petition, in view of the order dated 30.10.2018 passed by the Hon'ble First Bench in W.P. No.27767 of 2018.

5.Learned counsel for the petitioner requested us to grant time to rectify the deviations/violations, so that the petitioner can bring back the building as per planning permission. We are not hear to grant any such permission as the petitioner has to work out his remedy before the appropriate forum.



W.P.No.14507 of 2022 and W.M.P. Nos.13709 & 13710 of 2022

6.Mr.Raja Shrinivas, learned Standing Counsel appearing for R3 to 5 submitted that since the application filed by the petitioner under Section 113(c) of the above Act is pending for consideration, respondents 3 to 5 will pass appropriate orders, on merits and in accordance with law, subject to the order passed by the Hon'ble First Bench.

7.Therefore, respondents 3 to 5 are directed to pass appropriate orders, on merits and in accordance with law, subject to the order passed by the Hon'ble First Bench of this Court. Till then, respondents 1 to 5 are directed not to take any coercive action against the petitioner. Accordingly, this writ petition stands dismissed. No costs. Consequently, W.M.P. Nos.13709 and 13710 of 2022 are closed.

(T.R.,J.) (K.B.,J.)
10.06.2022

vga



W.P.No.14507 of 2022 and W.M.P. Nos.13709 & 13710 of 2022

WEB COPY

To

- 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,
Greater Chennai Corporation,
Chennai – 600 003.
- 4.The Executive Engineer,
Zone-X, Greater Chennai Corporation,
No.117, NSK Salai,
Kodambakkam,
Chennai-600 024.
- 5.The Assistant Executive Engineer,
Unit 29, Division – 127,
Greater Chennai Corporation,
Chennai.



WEB COPY



W.P.No.14507 of 2022 and W.M.P. Nos.13709 & 13710 of 2022

T.RAJA, J.
and
KABALI KUMARESH BABU,J.

vga

W.P.No.14507 of 2022 and W.M.P. Nos.13709 & 13710 of 2022

10.06.2022