

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2022

CORAM

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

W.P.No.14692 of 2022 and W.M.P. Nos.13886 and 13889 of 2022

Gopalakrishnan

.. Petitioner

-vs-

1.The Executive Engineer(E.E/Z-7),
Zone-VII, Greater Chennai Corporation,
M.T.H.Road, Ambattur,
Chennai - 600 053.

2.The Assistant Executive Engineer
(A.E.E./U18),
Zone-VII, Greater Chennai Corporation,
M.T.H.Road, Ambattur,
Chennai - 600 053.

3.The Assistant Executive Engineer
(A.E./DN 79),
Zone-VII, Greater Chennai Corporation,
M.T.H.Road, Ambattur,
Chennai - 600 053.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for the records of the respondents in Ref.No.Z.O.VII/C.No./Div.79/015/2022 Z.O.VII/C.No. Unit-18/02/2022 dated 23.04.2022 and quash the same.

For Petitioner : Ms.G.Niveditha

For respondents : Mr.K.Raja Shrinivas,
Standing Counsel
Corporation of Chennai

ORDER

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

Challenging the Notice Ref.No.Z.O.VII/C.No./Div.79/015/2022
Z.O.VII/C.No.Unit-18/022/2022 dated 23.04.2022 issued by the

respondents, the petitioner has come to this Court with this writ petition.

2.Learned counsel for the petitioner submitted that after purchasing the vacant lands in S.F.No.47/1A part and 47/4 part, Periyandavar Street, Oragadam, Ambattur, Chennai-600 053 to an extent of 828 sq.ft. from one Deepak on 17.10.2019, the petitioner got electricity in service connection No.433-002-2166 and paid property tax to the respondents. When the petitioner constructed a small dwelling house in the above vacant land to an extent of 400 sq.ft., the respondents issued stop work notice dated 21.03.2022 to the petitioner. Immediately, the petitioner appeared before the respondents in person and submitted his detailed representation dated 21.03.2022 stating that there is no un-authorized construction in the above said house. After inspection of the petitioner's site, the respondents found that there is no un-authorized construction. While so, the petitioner received a lock and seal notice dated 23.04.2022 from the respondents under Section 49 of the Tamil Nadu Town and Country Planning Act 1971. Learned counsel for the petitioner further submitted that since the petitioner had constructed a small dwelling house within his allotted portion and paid electricity and property taxes for the same, the impugned lock and seal notice dated 23.04.2022 issued by the respondents is against law.

3.Mr.K.Raja Shrinivas, learned Standing Counsel for the respondents submitted that even if the petitioner had utilised only 400 sq.ft. of land, he should obtain prior permission from the competent authority, as per Section 48 of the Tamil Nadu Town and Country Planning Act, which says that no person other than any State Government or Central Government or any local authority, shall, erect any building or make or extend any excavation or carry out any mining or other operation, in, on, over or under any land or make any material change in the use of land or construct, form or layout any work, without getting written permission from the appropriate planning authority in accordance with the conditions, if any, specified therein, on or after the date of the publication of the resolution under sub-Section (2) of Section 19 or of the notice in the Tamil Nadu Government Gazette under Section 26.

4.Heard both sides.

5.In this regard, it is useful to refer Section 48 of the Tamil Nadu Town and Country Planning Act as under:

'48.Restrictions on buildings and lands, in the area of the planning authority:- On or after the date of the publication of the resolution under sub-Section (2) of Section 19 or of the notice in the Tamil Nadu

Government Gazette under Section 26, no person other than any State Government or Central Government or any local authority, shall, erect any building or make or extend any excavation or carry out any mining or other operation, in, on, over or under any land or make any material change in the use of land or construct, form or layout any work except with the written permission of the appropriate planning authority and in accordance with the conditions, if any, specified therein.'

6.A perusal of the above provision would show that no person other than any State Government or Central Government or any local authority, shall, erect any building or make or extend any excavation or carry out any mining or other operation, in, on, over or under any land or make any material change in the use of land or construct, form or layout any work except with the written permission of the appropriate planning authority and in accordance with the conditions, if any, specified therein.

7.Since the petitioner had raised construction utilising 400 sq.ft. of land in S.F. No.47/1A part and 47/4 part, without obtaining prior planning permission from the respondents, we do not find any iota of merit in the present case. Admittedly, the petitioner has not obtained prior planning permission from the competent authority for putting up the construction and the impugned order also called for the petitioner to produce the planning permission and no such planning permission has been shown to us. Accordingly, the writ petition fails and the same is dismissed. No costs.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

vga

To

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PM(CO)

SB(20/07/2022)