



W.P.No.26650 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.26650 of 2022
and
W.M.P.Nos.25700, 25704 & 25705 of 2022

P.Velmurugan

...Petitioner

Vs.

- 1.The Commissioner,
Greater Chennai Corporation,
Ripon Building,
No.53, Raja Muthiah Road,
Kannappar Thidal, Periyamet,
Chennai – 3.
- 2.The Executive Engineer,
Town Planning Section,
Greater Chennai Corporation,
No.158, Strahans Road,
Otteri, Chennai – 12.
- 3.The Assistant Executive Engineer,
Town Planning Section,
Greater Chennai Corporation,
No.158, Strahans Road,
Otteri, Chennai – 12.



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4.C.Parasuraman

5.P.Deepa Priya

6.P.Prakash

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order dated 24.02.2022 vide DA/WDCN06/00021/2022 issued by the 2nd respondent herein, and quash the same.

For Petitioner : Mr.Meiyappan Mohan

For Respondents : Mr.D.B.R.Prabu

Standing Counsel for R1 to R3

ORDER

(Order of the Court was made by R.SUBRAMANIAN, J.)

Challenge in the Writ Petition is to the order of the Zonal Executive Engineer granting approval for demolition of the building situate at New No.50, Old No.37, Block No.1, Plot No.826, Survey No.14, Shivaji Street, G.K.M.Colony 29th Street, Peruvallur, Konnur, Chennai -600 082.

2.The learned counsel appearing for the petitioner would contend that under Section 246-A of the Chennai City Municipal Corporation Act,



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the power to grant demolition plan is vested with the Commissioner alone and the same cannot be exercised by the Zonal Executive Engineer. His other contention is that Section 246 of the Act obliges the authority, granting permission to ensure the safety and health of the occupants of the nearby buildings. The petitioner has objected to the grant of permission for demolition on the ground that a civil suit is pending. That cannot be a ground to refuse the permission for demolition.

3. We find that the civil suit has been filed by the petitioner herein seeking permanent injunction restraining the defendants from disturbing the plaintiff's peaceful possession. The question of title is not involved in the said suit. A prayer for declaration that the settlement deed dated 02.05.2013 executed by the defendant is null and void has also made therein. We do not propose to enter upon the merits of the civil suit that is pending. Pendency of a civil suit by itself cannot be a bar for the authority to exercise their powers under specific provisions of the Chennai City Municipal Corporation Act. Unless there is a prohibitory order by the civil court, the authority cannot refrain from exercising the powers vested in it under the provisions of an enactment.



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4.As regards the contention that the Commissioner alone can grant permission and not others, Mr.D.B.R.Prabhu, learned counsel appearing for the Chennai Corporation would submit that Section 16 of the Chennai City Municipal Corporation Act empowers the Commissioner to delegate the powers to another Officer and such delegation has been done by virtue of letter in W.D.C.No.2106/2019 dated 05.08.2021. A copy of the letter has also been produced.

5.We find that the power to sanction demolition has been delegated to the Zonal Executive Engineer. We therefore, do not see any merit in the Writ Petition. This Writ Petition fails and it is accordingly, dismissed. No costs. Consequently, connected miscellaneous petitions are closed. It is open to the petitioner to approach the Civil Court to seek appropriate interim order as he may be advised.

(R.S.M.,J.) (K.B.,J.)

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WEB COPY To:-

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