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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 05.01.2022

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P.No.28285 of 2021
and
W.M.P.No.29868 of 2021

Nazeer Ahmed
S/o Late Mohammed Sabu
No.61, Malayappan Street
Mannady, Chennai - 600 001.

... Petitioner

-vs-

1. The Assistant Engineer, Division-056
Greater Chennai Corporation
No.61, Basin Bridge Road, Chennai - 600 021.
2. The Assistant Executive Engineer, Unit 13
Greater Chennai Corporation
No.61, Basin Bridge Road, Chennai - 600 021.
3. The Executive Engineer, Zone 05
Greater Chennai Corporation
No.61, Basin Bridge Road, Chennai - 600 021.
4. The Commissioner
Greater Chennai Corporation
Ripon Building, Chennai - 600 003.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records pertaining to the order in Stop Work Notice No.05/06608/2021 dated 20.10.2021 and Lock & Seal and Demolition Notice No.05/04959/2021 dated 06.11.2021 issued by the 1st, 2nd and 3rd respondents against the petitioner property and quash the same.

For petitioner : Ms.M.B.Hussanara Begum

For respondents : Mr.K.Raja Srinivas
Senior Standing Counsel



ORDER

(Order of the Court was made by K.KALYANASUNDARAM, J.,)

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Heard, Ms.M.B.Hussanara Begum, learned counsel appearing for the petitioner and Mr.K.Raja Srinivas, learned Senior Standing Counsel appearing for the respondents.

2.This writ petition has been filed, challenging the notice issued by the respondents under Section 56(1) and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act.

3.The learned counsel for the petitioner would state that the petitioner's father, Late Mohammed Sabu, purchased the subject property in the year 1977 along with a building, subsequently no new construction was put up in the said building and after lapse of 45 years, now, the respondents have issued the notice impugned in this writ petition.

4.Mr.K.Raja Srinivas, learned Senior Standing Counsel appearing for the respondents would state that based on the complaint of the petitioner, the official respondents already initiated action against one Mr.Sahabudeen who is the neighbour of the petitioner. It is also stated that the Division Bench of this Court in W.P.No.25297 of 2011 dated 03.11.2011 has issued direction to the official respondents, that if any allegation of illegal construction has been made by the petitioner, the respondents should issue notice to both the parties, i.e., against whom the petitioner is making allegation of illegal construction. Hence, the respondents have issued notice to the petitioner also. It is further submitted that the said Sahabudeen, filed a writ petition in W.P.No.22357 of 2021, challenging the lock and seal notice dated 23.09.2021 and this Court directed the said Sahabudeen to file a special revision under Section 80A of the Act. Hence, similar direction can be issued to the petitioner herein also.

5.In the light of the submissions of the learned counsels and also taking note of the order dated 06.12.2021 passed in W.P.No.22357 of 2021, the petitioner is at liberty to file a special revision under Section 80A of the Act, if so advised, within a period of four weeks from the date of receipt of a copy of this order. If any revision is filed, the Government shall entertain the same and dispose of it, on merits and in accordance with law, after providing opportunity to all the necessary parties. Till such time, the respondents shall not take any coercive action.

6.It is made clear that if the revision is not filed,



within the prescribed time limit, the official respondents are at liberty to take further action in accordance with law.

7. With the above directions, this writ petition is disposed of. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

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+2ccs to Mr. Mahmood Aslam, Advocate, S.R.No.1170

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RLD (CO)
SU(16/02/2022)