



WP.No.28790/2022

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MRS. JUSTICE N.MALA

WP.No.28790/2022
& WMP.No.28079/2022

G.Ravi Shakar Gupta

.. Petitioner

Vs.

- 1.The Principal Secretary to Government
Housing and Urban Development Department
Fort St George, Chennai 600 009.
- 2.The Commissioner
Greater Chennai Corporation
Rippon Building, Chennai 600 003.
- 3.The Executive Engineer
Zone 1, Thriuvottriyur
Chennai 600 019.
- 4.The Assistant Executive Engineer
Unit 3, Thiruvottriyur
Chennai 600 019.



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5.The Assistant Engineer
Division 14, Zonal Officer
Thiruvottriyur, Chennai 600019.

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing to the 1st respondent herein to hear and dispose in manner known to law the application dated 23.12.2021 filed by the petitioner under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, in respect of building[s] situated at No.57, Ennore Express Road, Ondikuppam, Chennai-19 comprising in Survey No.208, Part, Thiruvottriyur Village and Taluk, Thiruvallur District [now coming under the Greater Chennai Corporation].

For Petitioner	:	Mr.S.Diwakar
For R1	:	Mrs.M.Geetha Thamaraiselvan Special Government Pleader
For RR 2 to 5	:	Mr.D.B.R.Prabhu Standing counsel

ORDER

[Order of the Court was made by S.S.SUNDAR, J.,]

- (1) Mrs.M.Geetha Thamaraiselvan, learned Special Government Pleader accepts notice on behalf of the 1st respondent and Mr.D.B.R.Prabhu, learned Standing Counsel accepts notice on behalf of respondents 2 to 5.
- (2) This writ petition is filed for issuance of a writ of mandamus to direct the the 1st respondent herein to hear and dispose in manner



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known to law the application dated 23.12.2021 filed by the petitioner under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, in respect of building[s] situated at No.57, Ennore Express Road, Ondikuppam, Chennai-19 comprising in Survey No.208, Part, Thiruvottriyur Village and Taluk, Thiruvallur District [now coming under the Greater Chennai Corporation].

- (3) The petitioner states that he is one of the tenants of the land and premises bearing Door NO.57, Ward No.15, Ennore Express Road, Ondipakkam, Chennai-19. It is the case of the petitioner that the building in which he is carrying on business in the above premises, is in his enjoyment for more than 40 years and that all these years, there was no construction activity either by the petitioner or by his landlord and the building continues to be intact in the same position for several decades.
- (4) It appears that the respondents have initiated action for removal of unauthorised constructions and in the process, it also appears that they have issued notices against the petitioner and his landlord on



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few occasions for removal of the unauthorised construction. When a notice for de-occupation was issued to the landlord on 22.06.2021 and a lock and seal notice dated 21.05.2021 was issued to the landlord of the petitioner herein, the landlord filed a writ petition before this Court in WP.No.16055/2021 and by order dated 05.10.2021, this Court disposed of the said writ petition in the following lines:-

"7.In the matter on hand, the petitioner claims to be the owner of the property bearing Door No.57, Ennore Express Road, Ondikuppam, Chennai 600019. Even according to the respondents, no notice was served on the petitioner and they are said to have been served on the basis, viz., Saravana Welding Works. However, there is no record to show that Saravana Welding Works is in possession of the property.

8.In the light of the above facts, the orders impugned in this Writ petition are quashed. However,



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the respondents are at liberty to take action against the petitioner in accordance with law."

- (5) Thereafter, it appears that a notice dated 10.12.2021 was issued against the petitioner who is only a tenant for de-occupation of the premises. The said notice dated 10.12.2021 is challenged by the petitioner before the Government by way of an appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971. When the appeal is pending, it is the grievance of the petitioner that the 4th respondent has passed an order for locking and sealing of the premises. It is the case of the petitioner that the said notice for de-occupation is contrary to law and arbitrary.
- (6) It is the further case of the petitioner that the petitioner is in the position of tenant for a long time and the order challenged before the Government by the petitioner is the order which is passed in exercise of the statutory powers of the respondents. When the petitioner has availed a statutory remedy, the respondents are expected to dispose of the appeal and take further action in the manner known to law.



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- (7) Even earlier, when a similar order was passed against the landlord, this Court had quashed the order on the simple ground that the landlord was never given any notice before passing the orders impugned therein. In line with the above order of this Court earlier passed in the writ petition filed by the landlord, this Court is of the view that the petitioner was not put on notice before passing the order dated 10.12.2021 which is challenged by the petitioner before the Government under Section 80-A of the Act.
- (8) It is brought to the notice of this Court that in a subsequent writ petition filed by the petitioner's landlord in WP.No.2799/2021, this Court has directed the 1st respondent therein to take up the appeal filed under Section 80-A of the Act and after giving opportunity of hearing to the petitioner therein, to dispose of the same on merits and in accordance with law. A further direction was issued to the respondents to maintain status quo till the appeal is disposed of. Hence, this Court is of the view that a similar direction will be appropriate even in the present case.



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- (9) In the result, the writ petition is **allowed**. Though the prayer in the writ petition is only for issuance of a writ of mandamus, considering the admitted facts, this Court is inclined to grant appropriate relief by setting aside the impugned Lock and Seal notice dated 18.10.2022 issued by the 5th respondent. The 1st respondent is directed to consider and dispose of the appeal stated to have been filed by the petitioner on 23.12.2021 under section 80-A of the Act after giving adequate opportunity of hearing to the petitioner, on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. **Till such time, the respondents are directed to maintain status quo and no coercive action need be initiated against the petitioner.**
- (10) Today, it is reported before this Court by the petitioner that the premises of the petitioner in which he is in occupation, is locked and sealed by the official respondents.
- (11) In view of the orders passed by this Court in the above writ petition, **the respondents are directed to desal the premises of the petitioner within twenty-four [24] hours from the date of**



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WEB COPY receipt of a copy of this order. No costs. Consequently,
connected miscellaneous petition is closed.

[SSSRJ] [NMJ]
31.10.2022

AP

Internet : Yes

To

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S.S.SUNDAR, J.,

AND

N.MALA, J.,

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