



WEB COPY



W.P.No.33323 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.33323 of 2022 and
W.M.P.Nos.32764 & 32766 of 2022

K.Sathyanathan

.. Petitioner

Vs.

1.The Assistant Engineer (Division 035),
Greater Chennai Corporation,
Erukkanchery,
Chennai – 600 118.

2.The Assistant Executive Engineer (Unit 09),
Greater Chennai Corporation,
Tondiarpet High Road, Tondiarpet,
Chennai – 600 021.

3.The Executive Engineer (Zone – 04),
Greater Chennai Corporation,
Tondiarpet High Road, Tondiarpet,
Chennai – 600 021.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records in Impugned Deoccupation Notice (Letter No.04/00018/2022) dated



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30.11.2022 issued by the Respondents and quash the same as arbitrary, illegal and devoid of merits and all acts done in furtherance thereof.

For Petitioner : Mr.A.Raja Perumal
for Ms.R.Prem Raja Kumari

For Respondents : Mr.D.B.R.Prabhu
Standing Counsel
for Greater Chennai Corporation

ORDER

(Order of the Court was delivered by V.M.VELUMANI,J.)

The petitioner has come out with the present Writ Petition to call for the records in Impugned Deoccupation Notice (Letter No.04/00018/2022) dated 30.11.2022 issued by the respondents and quash the same.

2.Mr.D.B.R.Prabhu, learned Standing Counsel takes notice for the respondents.

3.By consent of both the learned counsel appearing for the petitioner as well as the learned Standing Counsel appearing for the respondents, this Writ Petition is taken up for final disposal at the admission stage itself.



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4. According to petitioner, he is owner of the land and building situate at Door No.22/9, Balakrishnan Street, Erukkanchery, Chennai – 600 118, measuring about 554 sq.ft. His father Kanniappan purchased the property measuring 2936 sq.ft along with building from one L.Kanniammal by the sale deed dated 11.07.1985 and his father was paying the statutory dues from 11.07.1985. His father died on 29.02.2000. The legal heirs of his father including the petitioner and his mother K.Lakshmi are enjoying the property purchased by his father. The mother of the petitioner, viz., K.Lakshmi settled her share of 554 sq.ft from and out of larger extent of 2936 sq.ft together with building thereon on the petitioner. From the date of settlement, the petitioner is in possession and enjoyment of the property and is paying the statutory dues. While so, at the instigation of one R.Ravindra Ram, who filed Writ Petition in W.P.No.9929 of 2020, the respondents 1 & 2 inspected the property in question and called upon the petitioner to produce the approval plan for the building. Subsequently, the respondents have issued the impugned Deoccupation Notice dated 30.11.2022. Challenging the said Deoccupation Notice dated 30.11.2022, the petitioner has come out with the present Writ Petition.



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5.Mr.A.Raja Perumal, learned counsel representing counsel appearing for the petitioner submitted that the petitioner's father purchased the property measuring about 2936 sq.ft along with building by the sale deed dated 11.07.1985 and died on 29.02.2000. The petitioner is now the owner of the property measuring about 554 sq.ft, a portion of the larger extent of 2936 sq.ft of the building. When the petitioner's father purchased the property on 11.07.1985, the building was already in existence. By way of abundant caution, the petitioner applied for planning permission on 03.12.2022 and the same is pending for consideration by the 1st respondent.

6.Mr.D.B.R.Prabhu, learned Standing Counsel appearing for the respondents submitted that the building in question is unauthorized construction as the petitioner has not produced any building plan when he was called upon. In view of the same, the impugned notice dated 30.11.2022 is valid and legal and prayed for dismissal of the Writ Petition.

7.Heard the learned counsel appearing for the petitioner as well as the learned Standing Counsel appearing for the respondents and perused



the entire materials on record.

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8.From the materials on record, it is seen that a larger extent of 2936 sq.ft of land with building thereon was purchased by the father of the petitioner by sale deed dated 11.07.1985. According to petitioner, after death of his father, he is not able to produce the plan and approval of the entire building. Hence, he has applied afresh for planning permission approval for his portion of the property.

9.Considering the fact that building in question is a portion of the land from and out of the larger extent of 2936 sq.ft which was settled on the petitioner by his mother and the petitioner applied for building permission approval on 03.12.2022, which is pending with the 1st respondent, the 1st respondent is directed to consider the application of the petitioner dated 03.12.2022 on merits and in accordance with law as per the provisions of the Tamil Nadu Town and Country Planning Act, 1971 and pass orders within a period of four weeks from the date of receipt of a copy of this order. Till such time, the present impugned Deoccupation Notice dated 30.11.2022 shall be kept in abeyance.



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10. With the above directions, the Writ Petition is disposed of.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

(V.M.V., J) (R.H., J)
12.12.2022

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Index : Yes / No

Internet : Yes / No

To

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and

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