



W.P.No.34181 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.34181 of 2022

and

W.M.P.No.33633 of 2022

G.Kudhupudin

.. Petitioner

Vs.

1.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road, Egmore,
Chennai 600 008.

2.The Principal Secretary,
Housing and Urban Development Department,
Government of Tamil Nadu,
Fort St. George, Secretariat Buildings,
Chennai 600 009.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, forbearing the 1st respondent, its Officers, employees or anybody claiming under or through it from proceeding further in pursuance of the impugned Notice in Letter No.EC/C-1/10939/2022 dated 28.10.2022 and seeking our gate on west side should not be demolished or removed or interfered.

For Petitioner : Mr.K.Gajendiran



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For R1 : Mr.C.N.Vinobha
Standing Counsel (CMDA)

For R2 : Mr.P.Gurunathan
Additional Government Pleader

ORDER

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

The present writ petition is filed for forbearing the 1st respondent, its Officers, employees or anybody claiming under or through it from proceeding further in pursuance of the impugned Notice in Letter No.EC/C-1/10939/2022 dated 28.10.2022 and seeking our gate on west side should not be demolished or removed or interfered.

2. By consent of both the learned counsel appearing for the petitioner, Mr.C.N.Vinobha, learned Standing Counsel, who takes notice for the 1st respondent as well as Mr.P.Gurunathan, learned Additional Government Pleader, who takes notice for the 2nd respondent, this Writ Petition is taken up for final disposal at the admission stage itself.

3. Heard the learned counsel appearing for the petitioner, learned counsel appearing for the 1st respondent as well as the learned Additional Government Pleader appearing for the 2nd respondent and perused the



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entire materials on record.

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4. The learned counsel appearing for the petitioner submitted that the petitioner is owner of Flat No.G.2, Old No.10, New No.30, Anderson Road, Nungambakkam, Chennai and the said Flat/Apartment No.G2 with plinth area of 1585 sq.ft., on the ground floor of the Apartment Building namely “Anderson Gardens” along with an easementary right of exclusive enjoyment of an area of 1300 sq.ft situated at the North Eastern corner of the land in which the Apartment building is situated, the said area separated from the remaining area measuring 6 feet high wall on the Northern side, an automated rolling shutter on the eastern side of the apartment. The rolling shutter was very old and was in a dilapidated condition. It was very cumbersome to open and close the shutter. The petitioner modified the same as openable gate and he has not constructed any room or not fixed any fresh rolling shutter. While so, one Seema Kapoor filed W.P.No.22632 of 2022 alleging that the petitioner has put up construction violating the sanctioned plan. As per the order of this Court, the 1st respondent has issued Locking and Sealing and Demolition Notice dated 28.10.2022 to the petitioner. Challenging the said notice, the petitioner has filed an appeal dated 07.11.2022 under Section 80-A(1)



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RIW 113-C of the Tamil Nadu Town and Country Planning Act, 1971

before the 2nd respondent and the same is pending. Hence, the petitioner has come out with the present writ petition alleging that the 1st respondent is threatening him to demolish the alleged illegal construction and remove the rolling shutter and gate.

5. Mr.C.N.Vinobha, learned Standing Counsel appearing for the 1st respondent submitted that one Seema Kapoor filed W.P.No.22632 of 2022 alleging that the petitioner has put up illegal construction. This Court by the order dated 30.09.2022 directed the 1st respondent to take action as per the provisions of the Tamil Nadu Town and Country Planning Act, 1971 and posted the writ petition for reporting compliance on 02.01.2023. As per the order of this Court, the 1st respondent has issued Locking and Sealing and Demolition Notice dated 28.10.2022 to the petitioner.

6. Mr.P.Gurunathan, learned Additional Government Pleader appearing for the 2nd respondent submitted that the appeal dated 07.11.2022 filed by the petitioner will be disposed of within a time limit fixed by this Court and prayed for dismissal of the writ petition.



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7. The learned counsel appearing for the petitioner made various submissions against the Locking and Sealing and Demolition Notice dated 28.10.2022 issued by the 1st respondent to the petitioner. Inasmuch as, the petitioner has filed an appeal dated 07.11.2022 challenging the said notice dated 28.10.2022, without deciding various allegations made by the petitioner, it is suffice to direct the 2nd respondent to dispose of the appeal dated 07.11.2022 filed by the petitioner, after giving personal hearing to the petitioner, within a period of three months from the date of receipt of a copy of this order. Till such time, the 1st respondent is restrained from proceeding further in view of the Locking and Sealing and Demolition Notice dated 28.10.2022 issued to the petitioner.

8. With the above directions, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

(V.M.V., J) (R.H., J)
21.12.2022

Index : Yes / No
Internet : Yes / No
dm



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V.M.VELUMANI, J.
and
R.HEMALATHA, J.

dm

To

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