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W.P.No.161 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2023

CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MRS. JUSTICE N.MALA**

**W.P.No. 161 of 2023
and W.M.P.No.154 of 2023**

M.Sree Krishna

... Petitioner

Vs.

1. The Principal Secretary / Commissioner
Greater Corporation of Chennai,
Ripon Building, Chennai-600 003.

2. The Executive Engineer
Zone-III, Greater Corporation of Chennai,
No.196, Erattaimalai Srinivasan Street, Puzhal, Chennai-600 066.

3. The Assistant Engineer
Unit-VI, Greater Corporation of Chennai,
No.196, Erattaimalai Srinivasan Street,
Puzhal, Chennai-600 066.

4. The Junior Engineer
Division-023, Greater Corporation of Chennai,
No.1, Thattankulam Salai, Bazaar Salai,
Madhavaram, Chennai-600 060.

5. The Member Secretary
Chennai Metropolitan Development Authority,
No.1, Gandhi-Irvin Salai, Egmore, Chennai-600 008.

...Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the notice in Letter No.3/00068/2022 dated 13.12.2022 issued by the respondents 2 to 4 quash the same and consequently direct the respondents not to take any further action in respect of the building door No.148/33, Pillaiyar Koil Street, Puzhal, Chennai – 600 066, pending disposal of the application dated 29.08.2018 for regularization of the petitioner building.

(Prayer amended vide order dated 19.09.2023 made in W.M.P.No.837/2023 in W.P.No.161 of 2023)

For Petitioner : Mr.S.P.Sudalaiyandi

For Respondents : Mr.D.B.R.Prabhu
Standing counsel for RR1 to 4
Mr.C.N.Vinobha
Standing counsel for R5

ORDER

(Order of the Court was made by J.NISHA BANU, J.,)

Challenging the impugned order dated 13.12.2022 issued by the respondents 2 to 4, the petitioner has filed the present Writ Petition.

2.It is the case of the petitioner that originally one M.S.Murugan was the absolute owner of the property in Survey No.447/1A1, measuring an extent of 1200 sq.ft., at Door No.148/33, Pillaiyar Koil Street, Puzhal, Chennai – 600 066. Thereafter, the said Murugan obtained necessary planning



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permission from the 5th respondent vide letter dated 26.11.2006 and P.P.No.45 dated 27.12.2006, for construction of a building consisting ground floor and first floor. However, the said Murugan constructed ground + 3 floors in the above said property. The said building was constructed on or before 31.05.2007.

3.After the demise of Murugan, his legal heirs sold part of the property to an extent of 888 sq.ft., with built up area therein to the petitioner under the sale deed dated 22.05.2013. Remaining portions of vacant property measuring an extent of 312 sq.ft., was also sold to the petitioner's brother vide sale deed dated 04.06.2013.

4.While so, on 20.12.2014, the respondents 2 to 4 commonly issued a notice to the petitioner, calling for approved plan for construction of the said building. Accordingly, the petitioner submitted the plan approval granted by the 5th respondent and also requested the 5th respondent to revise the planning permission as per the construction of the building as against the original approved plan. However, the respondents 2 to 4, without considering the request made by the petitioner issued Locking & Sealing and Demolition



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notice on 22.12.2014 under Section 56 (3) of the Town and Country Planning Act (hereinafter referred as 'the Act').

5. Aggrieved against the said notice, petitioner filed a Writ Petition before this Court in W.P.No.35010 of 2014 and this Court by an order dated 05.01.2015 disposed of the same, stating as follows:-

“4. In view of the foregoing, without expressing any opinion on the merits of the case, we deem it just and proper to direct the respondents to take a decision on the application dated 03.12.2014 made to the third respondent and also the representation dated 21.12.2014 made to the respondents 1 and 2, and pass appropriate orders on its own merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. The notice dated 22.12.2014 shall not be given effect to till the aforesaid decision is taken by the respondents. This writ petition is disposed of accordingly.”

6. During the pendency of the above Writ Petition, the respondents 2 to 4 issued De-occupation notice to the tenants of the property and one of the tenant filed an appeal under Section 80 A of the Act, before the Government. In the meanwhile, the Government of Tamil Nadu issued G.O.Ms.No.110



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dated 22.06.2017, wherein the Government framed rules under Section 113-C of the Act and granted exemption of any building or class of building developed on or before 01.07.2007. Accordingly, the petitioner made application before the 5th respondent on 29.08.2018 for regularisation under Section 113 – C of the Act and the same is pending for consideration.

7.The learned Standing counsel appearing for the 5th respondent would submit that the matter regarding regularization under Section 113 – C of the Act, is pending before the Hon'ble Supreme Court. He further drew attention of this Court to the order passed by the Hon'ble First Bench of this court in W.P.No.9725 of 2017 by order dated 27.07.2023 ***[K.Perumal Vs. The State of Tamil Nadu, Rep.by the Secretary to Government and others]***, wherein it is held as under:-

“3.We have disposed of other writ petitions, with an observation that, “if subsequently after the orders are passed by the Apex Court and the petitioners have any remedy open, they are entitled to agitate the same afresh. In that event, all contentions are kept open”. We have observed that the parties may take steps pursuant to the judgment of the Apex Court.

4.In case, after the judgment of the Apex Court, if it



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is found that the fifth respondent is not entitled for regularisation, then the petitioner may agitate afresh.”

8. In view of the fact that the matter regarding regularization is seized of by the Hon'ble Supreme Court, the only remedy open to the petitioner is to await the orders of the Supreme Court. The petitioner is entitled to agitate the issue afresh, after the orders are passed by the Supreme Court, on the subject matter. Accordingly, the writ petition is disposed of. No costs. Consequently connected miscellaneous petition is closed.

(J.N.B, J.)

(N.M, J.)

19.09.2023

Index : Yes / No

Internet : Yes / No

Speaking order/Non-speaking order

Neutral Citation : Yes / No

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