



WEB COPY



W.P.No.2720 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and

THE HONOURABLE MR.JUSTICE KANDHASAMI
KULANDAIVELU RAMAKRISHNAN

W.P.No.2720 of 2023

and

W.M.P.Nos.2822 to 2824 of 2023

A.P.Duraisamy Naidu

.. Petitioner

Vs.

- 1.The State Rep. by,
Principal Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai – 600 009.
- 2.The Principal Secretary / Commissioner,
Greater Chennai Corporation,
Ripon Buildings, Chennai – 600 003.
- 3.The Regional Deputy Commissioner (North),
Greater Chennai Corporation,
Ripon Buildings, Chennai – 600 003.
- 4.The Executive Engineer,
Zone 2, Greater Chennai Corporation,
No.1, Kamarajar Salai, Manali,
Chennai – 600 068.



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5.The Assistant Executive Engineer,
Unit – 5, Zone 2, Greater Chennai Corporation,
No.1, Kamarajar Salai, Manali,
Chennai – 600 068.

6.The Assistant Engineer,
Division 019, Greater Chennai Corporation,
No.1, Kamarajar Salai, Manali,
Chennai – 600 068.

7.The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai – 600 008.

.. Respondents

(7th respondent suo motu impleaded by
by the order of this Court dated 07.02.2023)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records leading to the issuance of Stop Work Notice / Notice calling Approved Plan No. 02/00162/2022, dated 06.08.2022, Lock and Seal and demolition Notice in Letter No. 02/00096/2022, dated 31.08.2022 and De occupation notice in Letter No. 02/00022/2022, dated 19.10.2022 issued by the 4th Respondent, quash the same and consequently direct the Respondents 2 to 6 to grant sufficient time for filing exemption application before the 2nd Respondent to exempt the buildings as per the scheme devised by the 1st Respondent as per G.O.Ms.No.111, Housing and Urban Development Department, dated 22.06.2017 and direct the Respondents 2 to 6 not to take any coercive action against the Petitioner till he filing exemption application before



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the 2nd Respondent to exempt the buildings as per the scheme devised by the 1st Respondent.

For Petitioners : Ms.A.L.Ganthimathi
Senior Counsel
for Mr.M.Kamalanathan

For R1 : Mr.P.Gurunathan
Additional Government Pleader

For RR 2 to 6 : Mr.D.B.R.Prabhu
Standing Counsel
for Chennai Corporation

For R7 : Mr.C.N.Vinobha
Standing Counsel for CMDA

ORDER

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

The petitioner has come out with the present Writ Petition to quash Stop Work Notice dated 06.08.2022, Lock and Seal and demolition Notice dated 31.08.2022 and De-occupation notice dated 19.10.2022 issued by the 4th respondent and for a direction to the respondents 2 to 6 to grant sufficient time for filing exemption application before the 2nd respondent to exempt the buildings as per the scheme devised by the 1st Respondent as per G.O.Ms.No.111, Housing and Urban Development



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Department, dated 22.06.2017 and direct the respondents 2 to 6 not to take any coercive action against the him, till he filing exemption application before the 2nd respondent to exempt the buildings as per the scheme devised by the 1st respondent.

2.Mr.C.N.Vinobha, learned Standing Counsel for CMDA takes notice for the newly impleaded 7th respondent.

3.According to petitioner, he is owner of the property situate in S.F.No.115/2A2A, S.F.No.115/ 2A1, 115/2A2, 115/2A3 at Mathur Village, Kamarajar Salai, Chennai – 600 068, measuring about 0.13 acres (5668 sq.ft). He has constructed a building measuring 800 sq.ft and 3604 sq.ft in the ground floor, 1749 sq.ft in the 1st floor, while the property was within the jurisdiction of Mathur Village Panchayat. After Mathur Village became part of the Chennai Corporation, the officials of the respondents assessed property tax for the building in the year 2015 and re-assessed the property tax in the year 2018. From the date of assessment of property tax, the petitioner is continuously paying the property tax. There is no arrears as on date. While so, the respondents 4 to 6 issued Stop



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Work Notice / Notice calling Approved Plan No.02/00162/2022 dated 06.08.2022. Subsequently, they issued Lock and Seal and demolition Notice in Letter No. 02/00096/2022, dated 31.08.2022 and De-occupation notice in Letter No. 02/00022/2022, dated 19.10.2022. Due to old age and ailment, the petitioner did not comply with the said notices dated 06.08.2022, 31.08.2022 and 19.10.2022. In such circumstances, the petitioner has come out with the present Writ Petition.

4.The learned Senior Counsel appearing for the petitioner submitted that the building put up by the petitioner is as per the approved plan and within the limit of regularisation. Further, the building was constructed before 2007 and the petitioner is entitled to seek exemption. The learned Senior Counsel further submitted that pending Writ Petition, the property was locked and sealed by the respondents 3 to 6 on 27.01.2023 and prayed for a direction to de-seal the premises and grant time for filing application for regularisation and also application seeking exemption.

5.Mr.D.B.R.Prabhu, learned Standing Counsel appearing for



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respondents 2 to 6 submitted that the building was constructed by the petitioner only in the year 2009 and the petitioner is not entitled for any regularisation and prayed for dismissal of the Writ Petition.

6.Heard the learned Senior Counsel appearing for petitioner, learned Additional Government Pleader appearing for 1st respondent, learned Standing Counsel appearing for respondents 2 to 6 and learned Standing Counsel appearing for the newly impleaded 7th respondent and perused the entire materials on record.

7.From the above rival submissions it is seen that, it is the case of the petitioner that the building was constructed within the jurisdiction of Mathur Village Panchayat and before it became part of Chennai Corporation and that petitioner is paying Property Tax from 2015 as assessed by Chennai Corporation and that property was locked and sealed pending Writ Petition, the respondents 2 to 6 are directed to de-seal the premises within one week from today. The petitioner has filed the present Writ Petition challenging the de-occupation notices. The petitioner has a remedy of Revision before the 1st respondent. It is open



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to the petitioner to file Revision before the 1st respondent within a period of four weeks from the date of receipt of a copy of this order. If any such Revision is filed, the 1st respondent is directed to consider the same on merits and pass orders in accordance with law, within a period of three months thereafter. It is also open to the petitioner to file application for regularisation or getting exemption. If any such application is filed, the respondents 2 to 7 are directed to dispose of the same, within a period of eight weeks from the date of receipt of the said application.

8. With the above directions, the Writ Petition is disposed of. Consequently, the connected Miscellaneous Petitions are closed. No costs.

(V.M.V., J) (K.K.R.K., J)

07.02.2023

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Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

NOTE : Issue order copy on 10.02.2023.



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To

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Principal Secretary to Government,
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V.M.VELUMANI, J.
and

KANDHASAMI KULANDAIVELU RAMAKRISHNAN, J.

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