



WEB COPY

W.P.No.5196 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

and

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.No.5196 of 2023

and

W.M.P.Nos.5192 & 5194 of 2023

K.Sathyanathan

.. Petitioner

Vs.

1.The Assistant Engineer (Division 035),
Greater Chennai Corporation,
Erukanchery, 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.

4.The Secretary,
Tamil Nadu Housing and
Urban Development Department,
Fort St. George, Secretariat,
Chennai – 600 009.

.. Respondents

(R4 suo motu impleaded as per order
of this Court dated 29.03.2023)



Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the Respondents not to take any action against the Petitioner and / or his premises till the application under Section 80A of the Tamil Nadu Town and Country Planning Act, 1971 preferred by the Petitioner is disposed of.

For Petitioner	: Ms.Prem Raja Kumari
For RR 1 to 3	: Mr.D.B.R.Prabhu Standing Counsel
For R4	: Mr.E.Vijay Anand Additional Government Pleader

ORDER

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

The petitioner has come out with the present Writ Petition for a direction to the respondents not to take any action against the petitioner and / or his premises till the application under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, preferred by the petitioner is disposed of.

2.Today, *The Secretary, Tamil Nadu Housing and Urban Development Department, Fort St. George, Secretariat, Chennai – 600*



009 is suo motu impleaded as 4th respondent in this Writ Petition and Mr.E.Vijay Anand, learned Additional Government Pleader takes notice for the newly impleaded 4th respondent.

3.According to petitioner, his father Kanniappan purchased larger extent of property measuring about 2936 sq.ft situate at Balakrishnan Street, Erukkanchery, Chennai, on 11.07.1985. After death of his father on 29.02.2000, the mother of the petitioner viz., Lakshmi, executed a settlement deed for a portion of the property measuring about 554 sq.ft at Door No.22/9, Balakrishnan Street, Erukkanchery, Chennai, in favour of him and the property tax, water and sewerage tax were being paid by the petitioner. The respondents 1 & 2 on instigation from one R.Ravindra Ram, inspected the petitioner's property and issued Notice dated 11.03.2020, calling for the approved plan. Since, the property was inherited one, the approved plan could not be traced. While so, the respondents 1 to 3 issued De-occupation notice dated 30.11.2022, to the petitioner under Sections 56 – Sub Section 2(A) & 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971, as amended by Act 61 of 2008, demanding to de-occupy the premises within 7 days from the receipt of the notice.



3(a).On 03.12.2022, the petitioner applied for planning permission vide Reference No.COC/21594/22. Aggrieved by the De-occupation notice dated 30.11.2022, the petitioner filed W.P.No.33323 of 2022 before this Court, to quash the said De-occupation notice dated 30.11.2022. The Division Bench of this Court, by the order dated 12.12.2022, directed the 1st respondent 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 and till such time, the De-occupation Notice dated 30.11.2022 shall be kept in abeyance. The respondents 1 to 3 without obeying the order of this Court dated 12.12.2022, forcefully evicted the petitioner and his family members on 20.12.2022 from the petitioner's property and lock and seal was affixed. Further, a part of the property to an extent of 100 sq.ft out of 554 sq.ft were demolished by the respondents 1 to 3, in violation of the order passed by the Division Bench of this Court in W.P.No.33323 of 2022. Thereafter, the petitioner applied for another planning permission approval on 30.12.2022 vide Reference No.COC/23240/2022 and the same is pending. In the mean time, the petitioner preferred revision under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, before the 4th respondent on 05.12.2022



and the same is pending. After several representations, by order dated 25.01.2023, passed by the Under Secretary to Government, the petitioner's property was de-sealed for a period of 10 days and subsequently, the said premises was locked and sealed on 04.02.2023. Hence, the petitioner has come out with the present Writ Petition.

4.The learned counsel appearing for the petitioner submitted that the petitioner applied for Planning Permission Approval on 30.12.2022 and the same is pending. Further, the revision dated 05.12.2022 filed by the petitioner is also pending before the 4th respondent. In such circumstances, the respondents demolished 100 sq.ft of the property out of 554 sq.ft, which is in violation of the order passed by this Court in W.P.No.33323 of 2022 and prayed for allowing the Writ Petition.

5.The 3rd respondent filed counter affidavit.

6.Mr.D.B.R.Prabhu, learned Standing Counsel appearing for respondents 1 to 3 submitted that pursuant to the order passed by this Court on 22.02.2023 in this Writ Petition, the building in question was de-sealed by the officials of the Greater Chennai Corporation in the presence of the petitioner on 01.03.2023. The application dated



30.12.2022 submitted by the petitioner seeking another planning permission approval was rejected. The allegation made by the petitioner that 100 sq.ft of his property was demolished is not correct. The Corporation officials have removed the ramp and steps of about 26.71 sq.ft alone, which was constructed by the petitioner by encroaching the street and prayed for dismissal of the Writ Petition.

7.Mr.E.Vijay Anand, learned Additional Government Pleader appearing for the newly impleaded 4th respondent submitted that the petitioner's revision dated 05.12.2022, filed under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, will be considered and necessary orders will be passed in accordance with law and prayed for dismissal of the Writ Petition.

8.Heard the learned counsel appearing for the petitioner, learned Standing Counsel appearing for the respondents 1 to 3 and the learned Additional Government Pleader appearing for the 4th respondent and perused the entire materials on record.

9.Considering the above submissions made by the learned counsel appearing for the parties and the fact that the revision filed by the



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petitioner is pending from 05.12.2022, the 4th respondent is directed to dispose of the revision dated 05.12.2022 filed by the petitioner, after giving opportunity to the petitioner as expeditiously as possible, in any event, within three months from the date of receipt of a copy of this order. Till such time, the respondents 1 to 3 are restrained from taking any coercive steps against the petitioner.

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

(V.M.V., J) (V.L.N., J)
29.03.2023

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Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

NOTE: Registry is directed to carry out necessary amendment in the main Writ Petition.

To

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



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V.M.VELUMANI, J.
and

V.LAKSHMINARAYANAN, J.

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