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W.P.No.4311 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2023

CORAM:

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

W.P.No.4311 of 2023
and
W.M.P.Nos.4350 and 4352 of 2023

S.Saravan Kumar

.. Petitioner

Vs.

- 1.The Chennai Metropolitan Development Authority,
Represented by its Member Secretary,
Thalamuthu Natarajan Maligai,
No.1, Gandhi Irwin Road,
Egmore, Chennai – 600 008.
- 2.The Corporation of Chennai,
Represented by its Commissioner,
Rippon Buildings, No.1131, EVR Periyar Salai,
Park Town, Chennai – 600 003.
- 3.The Executive Engineer, Zone – 8,
Corporation of Chennai,
No.36B, 2nd Cross Street, Pulla Avenue,
Shenoy Nagar, Chennai – 600 030.
- 4.The Assistant Engineer, Division 103,
Corporation of Chennai,
No.36B, 2nd Cross Street, Pulla Avenue,
Shenoy Nagar, Chennai – 600 030.



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5. The Assistant Executive Engineer, Unit-22,
Corporation of Chennai,
No.36B, 2nd Cross Street, Pulla Avenue,
Shenoy Nagar, Chennai – 600 030.

.. 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 relating to impugned notice in Notice No:Zone VIII/TPENF/239/2022 dated 20.12.2022 issued by Respondents 3 to 5 and quash the same.

For Petitioner : Mr.Dhalapathy Vignesh Kumar

For R1 : Mr.R.Sivakumar
Standing Counsel

For R2 to R5 : Mr.D.B.R.Prabhu
Standing Counsel

ORDER

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

The Writ Petition is filed to quash the impugned notice in Notice No:Zone VIII/TPENF/239/2022 dated 20.12.2022, issued by the respondents 3 to 5.

2. By consent of both the learned counsel appearing for the petitioner, Mr.R.Sivakumar, learned Standing Counsel, who takes notice for 1st respondent as well as Mr.D.B.R.Prabhu, learned Standing Counsel, who takes notice for respondents 2 to 5, the writ petition is taken up for



final disposal at the stage of admission itself.

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3. Heard Mr.Dhalapathy Vignesh Kumar, learned counsel appearing for the petitioner, Mr.R.Sivakumar, learned Standing Counsel appearing for the 1st respondent as well as Mr.D.B.R.Prabhu, learned Standing Counsel appearing for the respondents 2 to 5 and perused the entire materials on record.

4. The learned counsel appearing for the petitioner submitted that the petitioner is owner of the property situated at Flat No.2A, in the Ground Floor of the building in Block No.2, erected on the land in Block No.14, T.S.No.1 Part of Periakudal Village, Anna Nagar, bearing Door No.AG, New No.19, Old No.8, Shanthi Colony, 4th Avenue, Anna Nagar, Chennai measuring 852 sq.ft and 1800 sq.ft., undivided share. In the said property there are two flats in the ground floor and two flats in the first floor with a common wall and common passage with common area. The petitioner is residing in the ground floor, one G.Vivekanandan and V.Yamini are residing in the first floor bearing Door No.AG, New No.17, Old No.10, Shanthi Colony, 4th Avenue, Anna Nagar, Chennai. According to the petitioner, the owners of first floor constructed unauthorisedly in



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the common passage on the eastern side of petitioner's property, without obtaining any approval. The petitioner filed W.P.No.8586 of 2020 and the said G.Vivekanandan filed W.P.No.10202 of 2020 alleging unauthorised construction put up against each other.

5. This Court by the order dated 26.08.2020, directed the Corporation to take further action as per the earlier notice issued. According to the petitioner, he removed the unauthorised construction put up by him. The said G.Vivekanandan, the owner of the flat in the first floor did not remove the unauthorised construction. Whiles, the respondents 3 to 5 issued the impugned notice dated 20.12.2022 only against the petitioner but not taking any action against the said G.Vivekanandan.

6. Considering the earlier order passed by this Court and the submission of the learned counsel appearing for the petitioner that the petitioner has removed the unauthorised construction, the petitioner is directed to give explanation to the impugned notice dated 20.12.2022 along with documents supporting his contention. On receipt of such explanation, the respondents are directed to inspect the property in



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question and take action as per the earlier order passed by this Court. Till such time, the respondents are restrained from taking any action against the petitioner.

7. With the above directions, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

(V.M.V., J) (R.H., J)
15.02.2023
(2/2)

Index : Yes / No
Neutral Citation : Yes / No
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V.M.VELUMANI, J.
and
R.HEMALATHA, J.

dm

To

- 1.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maligai,
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