



WEB COPY

W.P.No.5395 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

and

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.No.5395 of 2023

M.Arasakumar

.. Petitioner

Vs.

- 1.The Government of Tamilnadu,
Rep. by Its Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai – 600 009.
- 2.The Commissioner,
Greater Chennai Corporation,
Rippon Building, Chennai – 600 003.
- 3.The Executive Engineer,
Greater Chennai Corporation, Zone III,
No.1, Thattankulam Road, Madhavaram,
Chennai – 600 060.
- 4.Assistant Executive Engineer, Unit 06,
Greater Chennai Corporation, Zone III,
No.1, Thattankulam Road, Madhavaram,
Chennai – 600 060.
- 5.Assistant Engineer, DIV 024,
Greater Chennai Corporation, Zone III,
Surapattu, Chennai – 600 066.

.. Respondents



Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 1st respondent to consider and thereby disposing the petitioner Appeal Representations dated on 21.07.2022 under Section 80A of the Tamilnadu Town and Country Planning Act, 1971.

For Petitioner	: Mr.K.Yuvaraj
For R1	: Ms.R.L.Karthika Government Advocate
For RR 2 to 5	: Mr.E.C.Ramesh

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 1st respondent to consider and dispose of his appeal dated 21.07.2022, filed under Section 80-A of the Tamilnadu Town and Country Planning Act, 1971.

2.According to petitioner, he is the owner of the property at Survey No.190/10, Surapattu Village, Madhavaram Taluk, old Thiruvallur District, Chennai, measuring to an extent of 37.5 cents, put up construction in the year 1996 and is residing there along with his family.



He also let out a portion of the said property to tenants. While so, on a complaint given by third party, the respondents 4 & 5 issued stop work notice dated 22.04.2022, under Sections 56 (1) and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act., 35 of 1972 as amended by Act 61 of 2008) to the petitioner. On 25.05.2022, the respondents 3 to 5 issued Lock and Seal notice to the petitioner for locking and sealing and demolition of the deviated and unauthorised portion of the said premises. On 06.07.2022, the petitioner submitted his detailed explanation to the 3rd respondent. The 3rd respondent did not accept the said explanation dated 06.07.2022 and issued de-occupation notice dated 08.07.2022 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) to the petitioner to de-occupy the said premises within 15 days from the receipt of that notice. Hence, the petitioner filed Special Revision dated 21.07.2022, under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, before the 1st respondent. Since, no order has been passed on the said revision, the petitioner has come out with the present Writ Petition.



3.The learned counsel appearing for the petitioner submitted that the building has been constructed by the petitioner in the year 1996 and there is no deviation from the approved plan. The respondents 4 & 5 issued stop work notice based on a complaint given by third party, when no construction work is going on in the petitioner's property. The 3rd respondent without considering the explanation dated 06.07.2022 given by the petitioner, issued de-occupation notice and prayed for passing suitable orders.

4.Ms.R.L.Karthika, learned Government Advocate appearing for the 1st respondent submitted that the petitioner has constructed the building without obtaining any permission and building is unauthorised construction. In view of the same, notice was issued to lock and seal the building. The petitioner's appeal dated 21.07.2022, 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.

5.Heard the learned counsel appearing for the petitioner, learned Government Advocate appearing for the 1st respondent and the learned



W.P.No.5395 of 2023

counsel appearing for the respondents 2 to 5 and perused the entire materials on record.

6.Considering the above submissions made by the learned counsel appearing for the parties and the appeal filed by the petitioner is pending from 21.07.2022, the 1st respondent is directed to dispose of the appeal 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 2 to 5 are restrained from taking any coercive steps against the petitioner.

7.With the above directions, the Writ Petition is disposed of. No costs.

(V.M.V., J) (V.L.N., J)
09.03.2023

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No



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