



WEB COPY



W.P.Nos.7627 to 7630 of 2018

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.Nos.7627 to 7630 of 2018
and W.M.P.Nos.9533 to 9536 of 2018

P.R.Palani

... Petitioner in
W.P.Nos.7627 and 7630 of 2018

M.S.Kalaichelvan

... Petitioner in
W.P.No.7628 of 2018

Lalithabai Jain

... Petitioner in
W.P.No.7629 of 2018

-Vs-

1. The Executive Engineer
Zone V, Greater Corporation of Chennai
Ripon Buildings
Chennai – 600 003.

2.The Commissioner
Corporation of Greater Chennai
Ripon Buildings
Park Town, Chennai – 600 003.

... Respondents
in all the W.P's.



W.P.Nos.7627 to 7630 of 2018

PRAYER in W.P.No.7627 of 2018: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records in Letter No.05/03667/2018 dated 07.03.2018 on the file of the 1st respondent and quash the same.

PRAYER in W.P.No.7628 of 2018: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records in Letter No.05/03651/2018 dated 07.03.2018 on the file of the 1st respondent and quash the same.

PRAYER in W.P.No.7629 of 2018: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records in Letter No.05/03663/2018 dated 07.03.2018 on the file of the 1st respondent and quash the same.

PRAYER in W.P.No.7630 of 2018: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records in Letter No.05/03668/2018 dated 07.03.2018 on the file of the 1st respondent and quash the same.

In all the W.P's.:

For Petitioners : Mr.S.Sadasharam

For Respondents : Mr.D.B.R.Prabhu
Standing Counsel for RR1 & 2



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W.P.Nos.7627 to 7630 of 2018

COMMON ORDER

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

Challenging the impugned proceedings issued by the 1st respondent -
The Executive Engineer, Zone V, Greater Corporation of Chennai, in respect
of de-occupation notice, the petitioners have filed the above Writ Petitions.

2. The petitioners occupied the property in question long back and having its own superstructure in the land taken on lease. The petitioners are regularly making the payment of property tax and also the lease amount. However, the respondents issued do-occupation notice under Section 56, Sub Section 2(A) & 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971, to vacate the premises within 15 days. Hence they filed the present Writ Petitions seeking above relief.

3. The learned Standing Counsel appearing for the respondents 1 and 2 would submit that the petitioners can file an appeal by invoking the provisions under Section 80A of the Tamil Nadu Town and Country Planning Act.



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4.The learned counsel appearing for the petitioners also submit that they are ready to file the appeal before the Government and prayed to exclude the time spent in prosecuting this writ petition for the purpose of limitation.

5.Heard the learned counsel on either side and perused the materials.

6.On perusal of records it is seen that the petitioners without invoking their appeal remedy have filed the present Writ Petitions,

(i) Therefore, this Court deems it fit to direct the petitioners to file an appeal under Section 80A of the Tamil Nadu Town and Country Planning Act, before the Statutory Authority within a period of 30 days from the date of receipt of a copy of this order. The authority while considering the appeal petition, shall exclude the period spent on prosecuting this Writ Petition, for the purpose of limitation.

(ii) The petitioner is directed to file the statutory appeal along with the copy of this order.



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(iii) On filling of statutory appeal by the petitioner, it is for the competent authority to dispose of the same within a period of three months thereafter.

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

(J.N.B., J.) (N.M., J.)
19.09.2023

Index : Yes/No
Speaking order/Non-speaking order
Jer

To:
1. The Executive Engineer
Zone V, Greater Corporation of Chennai
Ripon Buildings
Chennai – 600 003.

2. The Commissioner
Corporation of Greater Chennai
Ripon Buildings
Park Town, Chennai – 600 003.



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W.P.Nos.7627 to 7630 of 2018

J.NISHA BANU, J.,
and
N.MALA, J.,
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Order made in
W.P.Nos.7627 to 7630 of 2018

Dated:
19.09.2023