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W.P.Nos.12801 to 12807 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2023

CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MRS. JUSTICE N.MALA**

**W.P.Nos. 12801 to 12807 of 2018
and W.M.P.Nos. 15024, 15026, 15028, 15030
15032, 15034 and 15036 of 2018**

M.S.Abul Hasan,

..... Petitioner in all

W.P.Nos.12801 to 12807 of 2018

Vs

1. The Secretary to Government
Housing and Urban Development Department,
Government of Tamil Nadu,
Fort St. George,
Chennai-600 009.

2. The Assistant Engineer,
Unit 13, Greater Chennai Corporation,
No.61, Basin Bridge Road,
Chennai-600 021.

3. The Assistant Executive
Engineer, Division 60,
Greater Chennai Corporation,
No.61, Basin Bridge Road,
Chennai-600 021.



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4. The Assistant Engineer,
Division 60,
Greater Chennai Corporation,
No.61, Basin Bridge Road,
Chennai-600 021.

5. The Executive Engineer,
Zone 05, Greater Chennai Corporation,
No.61, Basin Bridge Road,
Chennai-600 021.

.....Respondents in all
W.P.Nos.12801 to 12807 of 2018

COMMON PRAYER : Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the De-occupation Notice issued by the respondents 3, 4 and 5 dated 25.04.2018 under reference Letter No.05/00073/2017 under Section 56 Sub Section 2 (A) and 57 read with Section 85 of the Town and Country Planning Act 1971 as amended by Act 61 of 2008, in respect of Shop Nos. G-1, G-2, G-3, G-4, G-5, G-6 and G-7 respectively at premises bearing Door Nos.28-26 (221 and 222), NSC Bose Road, Chennai-600 001, and quash the same as illegal, null and void and consequently direct the 1st respondent to dispose of the statutory appeal dated 30.03.2017 filed by the petitioner.

For Petitioner
in all W.Ps : Mr.Ashok Menon

For Respondents
in all W.Ps : Mr.P.Gurunathan for R1
Additional Government Pleader
Mr.E.C.Ramesh for R2 to R5
Standing Counsel



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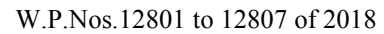
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COMMON ORDER

(Order of the Court was made by J.Nisha Banu,J.)

These writ petitions have been filed to call for the records of the De-occupation Notice issued by the respondents 3, 4 and 5 dated 25.04.2018 under reference Letter No.05/00073/2017 under Section 56 Sub Section 2 (A) and 57 read with Section 85 of the Town and Country Planning Act 1971 as amended by Act 61 of 2008, in respect of Shop Nos. G-1, G-2, G-3, G-4, G-5, G-6 and G-7 respectively at premises bearing Door Nos.28-26 (221 and 222), NSC Bose Road, Chennai-600 001, and quash the same as illegal, null and void and consequently direct the 1st respondent to dispose of the statutory appeal dated 30.03.2017 filed by the petitioner.

2. According to the learned counsel for the petitioner, the Greater Chennai Corporation had issued a Stop Work Notice/ Notice calling for approved plan to the building constructed at the site under reference on 01.03.2017 and also issued Lock and Seal, Demolition Notice No.05/00325/2017, dated 06.03.2017. Aggrieved by the same, the petitioner had preferred an appeal to Government under section 80A of Tamil Nadu Town and Country Planning Act,1971.



“In view of the above, as the appellant is the part owner of the building in the said premises, the appeals filed by the appellant Thiru.M.S.Abul Hasan for his Shop Nos.1 to 7 in the Ground floor of the said building against the Notice No. 05/00325/2017 dated 06.03.2017 issued for the premises at No.28-26 (221-222 G5), N.S.C. Bose Road, George Town, Chennai-600001 is not maintainable. The Government hereby grant three months time to all the lawful owners of the building in the said premises to obtain Planning permission after rectifying the defects as per Tamil Nadu Combined Development and building Rules, 2019. Further, Greater



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Chennai Corporation/ Chennai Metropolitan Development Authority is directed to pursue necessary enforcement action by the end of three months period afresh as per the provision of Tamil Nadu Town and Country Planning Act, 1971 after ascertaining the present site condition and the Planning Permission details for the existing building in the said premises at No.28-26 (221-222 G5), N.S.C. Bose Road, George Town, Chennai-600001.”

3. Learned Additional Government Pleader appearing for the 1st respondent would submit that as against the order passed under Section 80-A dated 27.04.2022, the remedy is open to the petitioner to challenge the same in the manner known to law.

4. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for R1 and the learned counsel appearing for R2 to R5.

5. A perusal of the order dated 27.04.2022 would go to show that on the date of the personal hearing on 10.12.2019, the petitioner was not present. It is the duty of the petitioner to follow



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up the case. In the order passed in 80A appeal, three(3) months time was granted to the petitioner to rectify the defects. Now, the three(3) months time is elapsed. By this time, the petitioner could have rectified the defects. If not rectified, the authorities are directed to take necessary enforcement action in respect of the buildings in question.

6. In the light of the above, the writ petitions are unsustainable and accordingly, dismissed. No costs.

(J.N.B,J.) (N.M., J.)
14.09.2023

msv

Index : Yes / No
Internet : Yes/No
Speaking order: Non-speaking order
Neutral citation : Yes/No
To

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Fort St. George,
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