



*W.P.No.13263 of 2023*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P. DHANABAL

**W.P.No.13263 of 2023**

1.Kasthuri

2.Radhakrishnan

... Petitioners

Vs.

1.The Commissioner,  
Corporation of Chennai,  
Rippon Buildings,  
Chennai-600 003.

2.The Executive Engineer,  
Zone Office-10,  
Corporation of Chennai,  
No.117, N.S.K.Salai,  
Kodambakkam,  
Chennai-600026

3.The Assistant Executive Engineer,  
Unit 29, Zone-10,  
Greater Chennai Corporation,  
Amman Koil Street, Vadapalani,  
Chennai-600 026.

...Respondents



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**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari, calling for records for the second respondent notice No.10/11886/2022 dated 05.04.2023 and to quash the same as illegal.

For Petitioners : Mr.G.Palani

For Respondents : Mr.D.B.R.Prabhu  
Standing Counsel for  
Corporation

On behalf of earlier  
W.P.No.32731 of 2022  
Mrs.A.V.Bharathi  
for Ms.D.Sridevi

### **ORDER**

(Order of the Court was made by *D.KRISHNAKUMAR, J.*)

The Writ Petition has been filed by the petitioners, challenging the impugned Notice No.10/11886/2022, dated 05.04.2023, issued by the second respondent.

2. According to the first petitioner, she is the absolute owner of the property situate at Door No.32/30, South Perumal Koil Street, Vadapalani, Chennai, measuring an extent of 600 sq.ft. She had acquired the said property from her father, Manavala Pillai. The first petitioner's father had constructed a residential building in the said



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property during his lifetime and the age of the building is more than 50 years. The first petitioner is living in the said residential building along with her husband/second petitioner herein. In front of the said residential building, the second petitioner is also having a two wheeler mechanic shop by erecting a cement shed in the name and style of Vijay Auto Works, which was erected 30 years ago. While so, on the basis of a complaint and representation made by one D.Seetharaman, the third respondent herein, without any prior notice, has issued a Stop Work notice, for producing the approved plan under the provisions of Sections 56 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)(hereinafter referred to as 'the Act'). Subsequent to the aforesaid notice, the second respondent herein has issued the impugned "Locking and Sealing and Demolition Notice" No.10/11886/2022 dated 05.04.2023, under the said Act, for removal of the unauthorized "Cement Sheet Roof Shed" in question. Aggrieved by the aforesaid notice dated 05.04.2023, the petitioners have filed the present Writ Petition.

3. According to the petitioners, no opportunity was afforded to



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them to place all the materials before the authority concerned, despite which, the second respondent has issued the impugned notice dated 05.04.2023, for the aforesaid Cement Sheet Roof Shed in Survey No.32/20, South Perumal Koil Street, Vadapalani, Chennai. Therefore, the impugned notice is liable to be set aside.

4. Learned counsel appearing for the respondent Corporation has placed an order passed by this Court in W.P.No.32731 of 2021 dated 09.12.2022, filed by one D.Seetharaman, wherein he has prayed for a direction to remove the unauthroized construction of a cement sheet roof shed, to an extent of 600 sq. ft. situate at Old No.21, New No.30, South Perumal Koil Street, Vadapalani, Chennai. This Court, in paragraph 6 of the order dated 09.12.2022 passed in the said writ petition, has held as follows:

*" It is the case of the petitioner that he is the owner of the property and 4<sup>th</sup> respondent has encroached the said property. The suit filed by the 4<sup>th</sup> respondent against the petitioner for injunction is pending before the competent Civil Court. Whether the petitioner is owner of the property or not and if any unauthorised construction is put up by the 4<sup>th</sup>*



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*respondent without any approval, building plan and permission, the respondents 1 to 3 are bound to remove the same as per law. In view of the above, without deciding the title of the property, the respondents 1 to 3 are directed to inspect the property in question within 15 days from the date of receipt of a copy of this order, after issuing notice to the petitioner as well as 4<sup>th</sup> respondent and if any unauthorised construction has been put up by the 4<sup>th</sup> respondent, the respondents 1 to 3 are directed to take appropriate action for removal of the same as per the provisions and in accordance with law.”*

5. Learned counsel for the respondent Corporation would submit that pursuant to the aforesaid direction issued by this Court, an inspection was conducted and the petitioners herein were also present in the said inspection. Thereafter, as directed by this Court, after affording appropriate opportunity to the petitioners, Locking and Sealing and Demolition notice dated 05.04.2023, has been served on the petitioners under the Act. Therefore, the impugned order passed by the respondent Corporation is perfectly valid.



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6. The learned counsel, who appeared in the earlier writ petition in W.P.No.32731 of 2022, even though the petitioner therein is not a party in the present writ petition, has made a statement before this Court that, the petitioner therein has given the correct schedule of property in the said Writ Petition, which is Old Door No.21, New No.30, South Perumal Koil Street, Vapalani, Chennai. Therefore, according to them, the property in question is only Old Door No. 21, New Door No.30, South Perumal Koil Street, Vadapalani, Chennai. But on the other hand, the learned counsel for the present writ petitioner claims that the petitioner herein is the absolute owner of the property in question, which is Door No.32/20, South Perumal Koil Street, Vadapalani, Chennai and the impugned order has been issued only against this property.

7. On a perusal of the impugned order, it is seen that the property in question is No.32/20, South Perumal Koil Street, Vadaplani, Chennai, whereas the property referred to in the earlier writ petition No.32731 of 2022 was Old No.21, New No.30, South Perumal Koil Street, Chennai. As such, dispute has been raised by



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both the parties regarding the description in the Door Number of the property. As the impugned order has been passed in respect of Door No.32/20, South Peruamal Koil Street, Vadapalani, Chennai, which is the subject matter of the present writ petition, both the parties shall make a request to the respondent Corporation to grant time by placing necessary records to prove the description of the property, based on which the respondent Corporation shall consider afresh, and pass appropriate orders, after hearing the parties concerned.

8. In the light of aforesaid discussion, we are inclined to interfere with the impugned order. We accordingly, quashed the impugned order dated 05.04.2023 in Notice No.10/11886/2022, passed by the second respondent and remit the matter back to the respondent Corporation to consider afresh, after providing an opportunity to the parties concerned. The respondent corporation is directed to serve notice to both the parties to appear for enquiry on 07.06.2023, through email. Both the learned counsel for the parties have also agreed that the parties will appear for the inquiry on 07.06.2023. Thereafter, the respondent Corporation is directed to consider the explanation of both the parties and pass appropriate



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orders, as expeditiously as possible, within a period of four weeks' time from the date of the said inquiry, on merits and in accordance with law. It is made clear that, thereafter if it is found that there is any unauthorized construction in the aforesaid property, appropriate action will be taken by the respondent Corporation in accordance with law. The writ petition stands disposed of. There will be no order as to costs. Consequently, W.M.P.No 12984 of 2023 is closed.

[D.K.K., J.]

[P.D.B., J.]

**02.06.2023**

Index : Yes/No  
Internet : Yes/No  
Neutral Citation : Yes/No  
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**Note: Issue order copy on 05.06.2023**

To

- 1.The Commissioner,  
Corporation of Chennai,  
Rippon Buildings,  
Chennai-600 003.
- 2.The Executive Engineer,  
Zone Office-10,  
Corporation of Chennai,  
No.117, N.S.K.Salai,  
Kodambakkam,

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3.The Assistant Executive Engineer,  
Unit 29, Zone-10,  
Greater Chennai Corporation,  
Amman Koil Street, Vadapalani,  
Chennai-600 026.



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**D.KRISHNAKUMAR, J.**  
**and**  
**P. DHANABAL, J.**

mrn

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