



W.P.No.13301 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mrs.JUSTICE N.MALA

W.P.No.13301 of 2023
and
WMP.Nos.13005 and 13006 of 2023

Arumugam

.... Petitioner

vs.

- 1.The Principal Secretary,
Housing and Urban Development Department,
Secretariat, Fort St.George,
Chennai 600 009.
- 2.The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai 600 003.
- 3.The Executive Engineer,
Zone 8,
Greater Chennai Corporation,
No.13/B/36B, Pulla Avenue,
Shenoy Nagar, Chennai 600 030.
- 4.A.Sahasranamam
(R4 suo motu impleaded vide order dated 29.08.2023)

.... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 1st respondent in his proceedings in Letter No 10468 / UD 6(2) 2021-3 dated 16.03.2023 and consequential proceedings of the 3rd respondent passed in his proceedings in M.A. 08 Na.Ka.No 2916 / 2023 dated 13.04.2023 and quash the same.

For Petitioner	: Mr.K.Sridhar
For RR1	: Mr.S.Balamurugan Government Advocate
For RR2 & 3	: Mr.D.B.R.Prabu, Standing Counsel

ORDER

This writ petition has been filed to issue a Writ of Certiorari to call for the records of the 1st respondent proceedings dated 16.03.2023 and consequential proceedings of the 3rd respondent, passed to vacate the property, dated 13.04.2023 and quash the same.

2. The case of the petitioner is that he is the absolute owner of the land and building to an extent of 1200 sq.ft situated at Old No.20, New No.28, Third Street, Veerapandi Nagar, Choolaimedu, Chennai 600 094. After obtaining planning permission, the petitioner has put up construction. One A.Sahasramanan, who is the adjacent land owner, had lodged a complaint against the petitioner alleging illegal construction and based on his complaint, the 3rd respondent issued pre-notice dated 10.05.2021, directing the petitioner



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to produce the approved plan for verification. The petitioner also produced the same. However on 20.05.2021, his building was inspected and the authorities found certain deviation and thereafter, the 2nd respondent had issued lock and seal notice dated 24.05.2021. Challenging the above said two notices, the petitioner preferred two revisions under Section 80 A of Tamil Nadu Town and Country Planning Act, before the 1st respondent. During the pendency of the above two revision petitions, the said A.Sahasranamam, filed W.P.No.28606 of 2022 to remove the illegal unauthorised construction of the petitioner, whereby this Court directed the 1st respondent to dispose of the above said two revision petitions and further directed the 2nd respondent to take action based on the order passed by the 1st respondent in the revision petitions.

3. According to the petitioner, since there was certain deviations, he requested the authorities to grant time to rectify the deviations and to obtain revised plan approval. The 1st respondent without considering the petitioner's request, vide his proceedings dated 16.03.2023, had dismissed the two revisions and directed the 2nd respondent to pursue further enforcement action in accordance with law. Based on the above order, the 2nd respondent vide



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letter dated 12.04.2023, directed the 3rd respondent to take further action and the 3rd respondent passed the order dated 13.04.2023, directing the petitioner to vacate the property within three weeks to enable the authorities to lock and seal the building. Aggrieved by the said impugned orders dated 12.04.2023 and 13.04.2023, passed by the official respondents, the petitioner is before this Court.

4. Heard the submission of the learned counsel for the petitioner, learned Government Advocate appearing for the 1st respondent and the learned standing counsel appearing for the 3rd respondent and also perused the materials available on record.

5. The learned Standing Counsel appearing for the 3rd respondent submitted that though the petitioner was issued with the impugned proceedings, he inturn given a complaint stating that the said A.Sahasramanan had put up his building at No.26/21, Veerapandi Nagar, 3rd Street, Choolaimedu, Chennai 600 094 by violating the Government rules and requested to take action against the said building. On receipt of the above complaint, the building of the said A.Sahasramanan was inspected and action



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has also been taken by issuing a Notice calling for approved plan dated 23.09.2021 and since the said A.Sahasramanan failed to submit the approved plan, the entire building was treated as unauthorised one and further enforcement action was taken by issuing a Locking and Sealing notice dated 23.05.2023. Hence both the petitioner as well as said A.Sahasramanan has put up unauthorised construction in violation of sanctioned plan.

6. This Court, on an earlier occasion considering the fact that the said A.Sahasramanan, was a necessary and proper party in this writ petition, had suo motu impleaded him as 4th respondent and in order to ascertain the position whether the violated portions of the building in question are removed or not, also appointed Advocate Commissioner.

7. The learned Advocate Commissioner has filed the report along with annexures, which clearly states that the superstructure / building in the petitioner's premises is in excess of the dimensions set out in the Sale Deed, further the ground and two floors are built without setback / side setback. The petitioner deviated from the building plan, constructed the building in excess of the approved plan and the second floor which was constructed, is totally



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unauthorised construction without any approval or sanction from the concerned authorities.

8. This Court, taking into consideration the report of the learned Advocate Commissioner, is of the view that the petitioner's premises is an unauthorised construction. He constructed the building without leaving side setback space. Therefore, the 3rd respondent rightly issued Lock and Seal, De-occupation notice upon finding that the petitioner's property is built in violation of building rules and without adhering to the sanctioned plan. Hence, there is no infirmity on the part of the respondents 1 and 3 in passing the impugned orders. Therefore, the impugned order does not warrant any interference of this Court.

9. As far as the illegal construction of the 4th respondent is concerned, the 3rd respondent has already issued Lock and Seal notice dated 23.05.2023. Hence, insofar as the petitioner is concerned, the respondents 1 to 3 are directed to take enforcement action in accordance with law and further insofar as the 4th respondent is concerned, appropriate action shall be taken by the respondents 1 to 3 in the manner known to law.



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10. This writ petition is disposed of on the above terms. No costs.

Consequently connected miscellaneous petition is closed.

(J.N.B., J.) (N.M., J.)
07.12.2023

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Index : Yes / No

Internet : Yes / No

To

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