



W.P.No.17330 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P. DHANABAL

W.P.No.17330 of 2023

A.Murugarayar

Vs

... Petitioner

- 1.The Secretary,
Government of Tamil Nadu,
Department of Housing and Urban Development,
Appellate Authority, (Under the Town and Country
Planning Act 1971),
Fort St. George, Chennai.
- 2.The Director,
Directorate Town and Country Planning,
2,3 & 4th Floors, C & E Market Road,
Koyembedu, Chennai – 600107.
- 3.The Executive Engineer/Zonal Officer,
Zone VI, Unit XVI, DIV/70,
Greater Chennai Corporation,
No.158, Strahans Road, Pattalam,
Chennai-600012.
- 4.The Assistant Executive Engineer,
Zone VI, Unit XVI, DIV/70,
Greater Chennai Corporation,
Chennai.



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5.The Junior Engineer,
Zone VI, Unit XVI, DIV /70,
Greater Chennai Corporation,
Chennai

6.The Assistant Engineer,
Zone VI, Unit XVI, DIV/70,
Greater Chennai Corporation,
Chennai.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Mandamus, directing the first respondent to dispose of the petitioner appeal dated 31.05.2023 in a time bound manner and further to direct the respondents to not to disturb the petitioner possession over the petitioner property and not to take any action based on the de-occupation notice dated 13.03.2023 with regard to the petitioner property till the pending disposal of the petitioner appeal dated 31.05.2023 on the file of the first respondent and pass orders.

For Petitioner	: Mr.V.Anthony Elangovan Raj
For Respondents	: Mr.A.Selvendran Special Government Pleader for respondents 1 and 2 Mr.D.B.R.Prabhu Standing Counsel for Corporation for respondents 3 to 6

ORDER

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

By consent of parties, this writ petition has been taken up for final disposal at the admission stage itself.



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2. The writ petition has been filed for a Mandamus, directing the first respondent to dispose of the petitioner's appeal dated 31.05.2023 in a time bound manner and further to direct the respondents not to disturb the petitioner's possession over the petitioner's property and not to take any action based on the de-occupation notice dated 13.03.2023 issued under Section 56-Sub Section 2(A) & 57 read with Section 85 of Town and Country Planning Act, 1971, as amended by act 61 of 2008 (for the sake of brevity hereinafter referred to as the Act, 1971,) with regard to the petitioner's property till the disposal of the petitioner's appeal dated 31.05.2023 on the file of the first respondent.

3. According to the petitioner, his brother's wife namely K.Shanthi has purchased the land and building comprised in T.S.No.15, Block-3, Sembium Village, Perambur-Purasawakkam Taluk, Chennai District, measuring an extent of 2550 sq.ft. together with super structure built thereon bearing Door No.1, Jammuna Bai Street, MES Street, Sembium, Perambur, Chennai-600011, from one P.A.Rahman by sale deed dated 02.02.1998 in Doc.No.459/1998 at SRO, Sembium. Thereafter, she settled 1080 sq feet land along with part of the super



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structure thereon in favour of her husband A.Shanmugasundaram, who is petitioner's younger brother, by settlement deed dated 08.02.2012. Thereafter, the said A.Shanmugasundaram, settled the same in favour of the petitioner by settlement deed dated 24.05.2012 in Doc.No.1559 of 2012 at Sembium SRO.

4. By virtue of the aforesaid settlement, the petitioner is enjoying 1080 sq.ft. along with superstructure in the property in question. That being so, the respondent official came to the property at Door No.1A, Jamuna Bai Street, MES Street, Sembium, Perambur, Chennai-600011 on 30.05.2023, and attempted to throw the petitioner away by showing a de-occupation notice dated 13.03.2023 under Section 56-Sub Section 2(A) & 57 read with Section 85 of the Act, 1971. The petitioner came to know that the petitioner's sister in law has also filed an appeal against the order of lock and seal before the Government. The petitioner has filed an appeal dated 31.05.2023, as against the notice dated 13.03.2022 before the first respondent and the same is pending.



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5. A status report has been filed by the third respondent by stating that earlier one Sathyavathi has filed a writ petition in W.P.No.7174 of 2021, challenging the notice dated 15.12.2020 issued by the respondent therein and this Court, by order, dated 04.11.2022, has passed an order as follows:

"..2.As per the directions issued on 13.10.2022, learned Standing Counsel for the Chennai Corporation has filed a Status Report, wherein it is stated that the Chennai Corporation has issued a Locking, Sealing and Demolition Notice on 26.10.2022, and it is stated that further action against the building in question will be taken as per the provisions of the Tamil Nadu Town and Country Planning Act, 1971.

3. Recording the said statement, the Writ Petition is disposed of with a direction to the Chennai Corporation to pursue the action taken to its logical conclusion. There shall be no order as to costs."

6. It is further stated in the status report that pursuant to the above orders dated 04.11.2022, further action had been taken by issuing a De-occupation Notice dated 13.03.2023, under Section 56-Sub Section 2(A) & 57 read with Section 85 of the Act, 1971.



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7. According to the petitioner, his sister-in-law, K.Shanthi is the adjacent owner of the petitioner's property. She was also issued with a de-occupation notice dated 13.03.2023, against which she had preferred an appeal, before Government. Pending such appeal, as the respondents officials attempted to interfere with her possession, she has filed W.P.No.16314 of 2023 before this Court. This Court, by order dated 25.05.2023 has directed the appellate authority, to dispose of the appeal within a period of 12 weeks from the date of receipt of a copy of that order and further ordered that till such time status quo shall be maintained. Accordingly, the petitioner also seeks that same kind of order may be granted in favour of the petitioner in this writ petition.

8. Learned Standing Counsel appearing for the Corporation has stated that since the entire building is under one roof, notices were issued in the name of K.Shanthi and action against the petitioner's portion will be taken as per the provisions of the Act, 1971. According to them, the aforesaid appeal filed by the petitioner under Section 80 A of the Act, 1971 before the first respondent, is pending as on date.



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9. Considering the said submission and in the light of the order passed by this Court, in W.P.16314 of 2023, dated 25.05.2023, we are inclined to direct the first respondent to consider the petitioner's appeal dated 31.05.2023, on its own merits and in accordance with law and pass orders as expeditiously as possible, after providing opportunity to the parties, within a period of 12 weeks from the date of receipt of a copy of this order.

10. With the above directions, the writ petition stands disposed of. There will be no order as to costs. Consequently, connected W.M.P.No.16465 of 2023 is closed.

[D.K.K., J.] [P.D.B., J.]
14.06.2023

Index : Yes/No
Neutral Citation : Yes/No
mrn

To
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