



W.P.No.19407 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2023

CORAM

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

**W.P.No.19407 of 2023
and W.M.P.No.18681 of 2023**

K.Subramani

... Petitioner

Vs.

1.The Additional Secretary (Technical)
Housing and Urban Development Department,
Secretariat, Fort St. George,
Chennai-600 009.

2.The Zonal officer,
Zone No-14, Greater Chennai Corporation,
No.6/64, Puzhuthiwakkam Main Road,
Chennai-600 091.

3.The Executive Engineer,
Zone No-14, Greater Chennai Corporation,
No.6/64, Puzhuthiwakkam Main Road,
Chennai-600 091.

4.The Assistant Executive Engineer,
UNIT-41, Zone-14, No.6/64,
Puzhuthiwakkam Main Road,
Chennai-600 091.

5.The Assistant Engineer,
Division- 181, Unit-14, Zone-14,
No.6/64, Puzhuthiwakkam Main Road,



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Chennai-600 091.

6.Navaneetham

7.K.Arulvel

8.Vadivel

...Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to the office of the respondents no.3 to 5 vide the Letter No.14/100A/2023 dated 10.06.2023 and quash the same.

For Petitioner	: Mr.M.Guruprasad
For R-1	: Mr.E.Vijay Anand, Additional Government Pleader
For RR 2 to 5	: Mr.D.B.R.Prabhu Senior Counsel
For R-6	: No appearance
For R-7	: Mr.G.Jayachandran

ORDER

Writ Petition is filed for a Writ of Certiorari to call for the records pertaining to the office of the respondents 3 to 5 vide the letter dated 10.06.2023 and to quash the same.

2. According to the petitioner, the respondents 6 and 7 are the owners of the vacant land in Survey Numbers 85 and 169 (New Survey Number 271/11),



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measuring to an extent of 6000 Sq.ft, Kottivakkam village, Tambaram Taluk, kancheepuram District. The petitioner entered into a lease agreement with the respondents 6 and 7 for a period of 11 months and took possession of the property from the date of lease. According to the petitioner the lease was initially renewed for a period of 11 months and thereafter renewed orally. The petitioner was in peaceful possession and enjoyment of the premises as a lessee.

3. According to the petitioner, he had invested substantial money for developing his business, which he had conducted in the aforesaid property in the name and style of 'Dream Works'. Because of some misunderstanding between the petitioner and the 6th and 7th respondent, the 8th respondent lodged a complaint at the instigation of the 7th respondent on 08.09.2022 against the petitioner for alleged unauthorised construction put up by him in the subject property. Based on the said complaint, the respondents 2 to 4 issued a notice to the petitioner on 22.12.2022 under Sections 56(2(A)) and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 and locked and sealed the building on 05.01.2023. Prior to the aforesaid action, the respondents 2 to 4 had already sent notices under Section 56(1) and 57 of the Act i.e on 08.10.2022 and a notice for lock and seal was issued on 09.11.2022 and on



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05.12.2022 a de-occupation notice was issued under Section 57 read with 85 of the said Act.

4. According to the petitioner, none of the said notices were issued to him as an occupier but all notices were served to the 7th respondent and therefore he was not aware of the same. The petitioner aggrieved by the order dated 22.12.2022 issued under Section 56(2(A)) and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, filed special revision petition on 23.01.2023 before the Housing and Urban Development Department, Secretariat, Chennai. During the pendency of the said special revision petition the petitioner filed a writ petition in W.P.No.3502 of 2023 for a direction to the 1st respondent to dispose his aforesaid appeal filed under Section 80-A of the Town and Country Planning Act, 1971. The said writ petition was disposed of with a direction to the 1st respondent to consider the revision petition within a period of 3 months from the date of receipt of copy of the order.

5. On 22.05.2023, the Additional Secretary of the Housing and Urban Development Department disposed of the appeal, directing the Greater Chennai Corporation to serve notice on the occupiers/tenants of the premises and to take further action in compliance with the provisions of Tamil Nadu Town and



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Country Planning Act, 1971 and G.O.Ms.No.195 of Housing and Urban Development Department dated 05.11.2022 and also directed to de-seal the premises. The writ petitioner preferred two suits, which according to him were pending. In pursuance to the order passed by the Additional Secretary in the special revision petition, the Greater Chennai Corporation issued a de-occupation notice under Section 56 Sub-Section 2(A) and 57 read with Section 85 of the Town and Country Planning Act, 1971 to de-occupy the said premises within 15 days from the date of receipt of copy of the notice. The petitioner has filed the above writ petition challenging the said order.

6. The only point that was agitated by the learned counsel for the petitioner at the time of hearing of the writ petition is that, the structure put up by him was a temporary one and was not harmful to any persons and that the structure put up by him did not require planning permission. The counsel therefore contended that the structure could not be considered as unauthorised construction.

7. The contentions of the learned counsel for the petitioner cannot be countenanced, in view of the definition of the term building given under Section 2 sub-clause 7 of the Town and Country Planning Act. The definition



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is as follows:

WEB COPY“(7) **“building”** includes-

(a) a house, out-house, stable, latrine, godown, shed, hut, wall (other than a boundary wall) and any other structure whether of masonry, bricks, mud, wood, metal or any other material whatsoever;

(b) a structure on wheels or simply resting on the ground without foundations;

(c) a ship, vessel, boat, tent, van and any other structure used for human habitation or used for keeping or storing any article or goods; and

(d) the garden, grounds, carriages and stables, if any, appurtenant to any building;”

From the definition of the word 'building' it is clear that the petitioner's structure is covered and hence the contention of the learned counsel for the petitioner deserves no merit.

We therefore find no merit in the writ petition and hence same is dismissed. Consequently connected Miscellaneous Petition is closed. There shall be no order as to costs.

(J.N.B, J.)

(N.M, J.)

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Index : Yes / No

Internet : Yes / No

Speaking order: Yes/No

Neutral Citation : Yes / No

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To

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