



WEB COPY



W.P.No.22656 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.22656 of 2022

D.Subramaniam

.. Petitioner

Vs.

- 1.The Commissioner
Greater Chennai Corporation,
Park Town, Chennai - 600 003.
- 2.The Assistant Commissioner,
Greater Chennai Corporation,
Zone-8, Shenoy Nagar, Chennai - 600 030.
- 3.The Zonal Officer,
Greater Chennai Corporation, Zone-8
No.36B, Pullah Avenue, Shenoy Nagar,
Chennai - 600 030.
- 4.The Assistant Health Officer, Zone-8
Greater Chennai Corporation,
Zone-8, Shenoy Nagar, Chennai - 600 030.

5.T.V.Ramanan

.. Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the Respondents-1 to 4 to take necessary action on complaints dated 21.01.2019, 25.07.2020 and 13.06.2022 in respect of the illegal structure put up by the 5th respondent at No.13F/1, Thanthoniamman Koil Street Extension, Villivakkam, Chennai – 600 049 and illegal usage of the above structure for storage of inflammable material without any permission.

For Petitioner : Mr.M.Peer Mohammed

For R1 to R4 : Mr.D.B.R.Prabhu
Standing Counsel

For R5 : No Appearance

ORDER

(Order of the Court was delivered by V.M.VELUMANI, J.)

The present Writ Petition is filed by the petitioner for a direction to the respondents 1 to 4 to take action on the complaints dated 21.01.2019, 25.07.2020 and 13.06.2022 in respect of the illegal structure put up by the 5th respondent.



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2. Heard Mr.Peer Mohammed, learned counsel appearing for the petitioner as well as Mr.D.B.R.Prabhu, learned Standing Counsel appearing for the respondents 1 to 4 and perused the entire materials on record.

3. According to the petitioner, he sold a portion of the land to the 5th respondent to an extent of 884 sq.ft., together with half right in 6 feet common passage measuring 297 sq.ft. The 5th respondent has put up unauthorised construction without obtaining building plan and permission. Further, the 5th respondent is using the premises as a godown for commercial usage and storing Agarbathis, which is highly inflammable. The building is in a narrow road. The petitioner has given various complaints to the respondents 1 to 4 but they have not taken any action on the complaints. Hence, the petitioner has come out with the present writ petition for the relief sought for.

4. The 3rd respondent has filed a status report and additional status report. According to the 3rd respondent, on receipt of complaints from the petitioner, a notice under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 was issued to the 5th



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respondent on 30.10.2019. The 5th respondent did not respond to the said notice. Hence, the respondents 1 to 4 issued locking, sealing and demolition notice dated 28.11.2019, against which, the 5th respondent filed an appeal under Section 80-A of the Tamil Nadu Town and Planning Country Act, 1971 before the Secretary to Government, Housing and Urban Development Department. The Additional Secretary to Government, Housing and Urban Development Department has disposed of the appeal filed by the 5th respondent herein vide Letter No.1520/UD-5/2020-2, dated 30.05.2020 stating that after considering the recommendation of the Appeal Committee, the respondents 1 to 4 are directed to grant approval for building plan submitted by the 5th respondent which was rejected earlier by the respondents 1 to 4. On receipt of the order of Government, the respondents 1 to 4 granted approval for the building plan submitted by the fifth respondent.

5. The learned Standing Counsel appearing for the respondents 1 to 4 further submitted that the respondents 1 and 2 are processing the application for planning permission only through online and there is no provision as 'existing building' and hence, in the approval it has been mentioned as 'new construction', even though approval was granted for



existing building. In the status report, the 3rd respondent further stated that on inspection it was found that the 5th respondent is not using the building as Godown and not storing Agarbathis and only household articles are stored in the premises. To substantiate the same, the 3rd respondent has also filed photographs to that effect.

6. Though the 5th respondent entered appearance, there is no representation for the 5th respondent when the matter is taken up for hearing.

7. From the materials on record, it is seen that the petitioner has sought action against the 5th respondent for putting up unauthorised construction in the property in question. The 5th respondent has filed appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 before the Secretary to Government, Housing and Urban Development Department and the Government by the letter dated 30.05.2020 disposed of the appeal and addressed the said letter to the Corporation as follows:-

“...3. The Government accepted the recommendation of the Appeal Committee. Accordingly, the Government



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hereby remit back the case to the Greater Chennai Corporation for issuance of Planning Permission since the front setback satisfies with Completion Certificate norms. The Government also direct the appellant to obtain Planning Permission from the Greater Chennai Corporation within three months time falling which necessary enforcement action will be taking against the construction....”

8. Based on the said order, the respondents 1 to 4 have approved the building plan submitted by the 5th respondent. The respondents 1 to 4 also inspected the property and found that the building is as per the approved plan and the same is not used as Godown. Inasmuch as the respondents 1 to 4 have taken action on the complaints given by the petitioner against the 5th respondent and the 5th respondent has obtained planning permission, nothing survives in the writ petition and the writ petition is liable to be dismissed and hereby dismissed. No costs.

(V.M.V., J) (R.H., J)
20.01.2023

Index : Yes / No
Neutral Citation : Yes / No
dm



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