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W.P.No.20113 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2023

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.20113 of 2023
and
W.M.P.No.19451 of 2023

N.R.Bhuvaneswari

... Petitioner

VS.

1.The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai 600003.

2.The Executive Engineer,
Zone 5,
Greater Chennai Corporation,
No.61, Basin Bridge Road,
Chennai 600021.

3.B.L.Sankar

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records in the impugned proceedings in Ma.A5.Na.Ka.No.3723/2023 dated 29.05.2023 on the file of the 2nd Respondent and quash the same.



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For Petitioner : Mr.R.Rajarajan
For R1 ad R2 : Mr.A.S.Ragul Adhithya
for Mrs.P.T.Ramadevi
Standing Counsel for GCC
For R3 : Mr.M.K.Bhoopathy Rajan

ORDER

The writ petition is filed challenging the order passed by the 2nd respondent dated 29.05.2023.

2. According to the petitioner, the land with an extent of 391 sq.ft., comprised in S.No.9130, Plot No.76, Purasaivakkam Taluk, Door No.38/A, NSC Bose Road, Chennai is a Government property. The said land was originally in occupation of the petitioner's husband T.P.Thangavelu and he was permitted to construct the building after obtaining 'No Objection Certificate' from Corporation of Chennai and Traffic Police. The husband of the petitioner also filed an application seeking regularisation of his occupation under G.O.Ms.No.842, Revenue (T1) Department, dated 05.06.1991.



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3. Considering his request, a Lease Deed dated 08.10.1992 was executed by the Government in favour of the petitioner's husband T.P.Thangavelu for a period of 15 years. The petitioner's husband died on 06.07.2004. Even after expiry of the lease period, the petitioner continued the occupation of the said land. The Tahsildar, Chennai by letter dated 20.07.2006 issued a notice calling upon the petitioner to pay rental arrears of Rs.8,09,575/- and the same was also paid by the petitioner. Therefore, the petitioner paid the rent upto 04.06.2009.

4. Thereafter, the petitioner approached the Tahsildar, Chennai for extension of lease. However, she was directed to approach the Land and Estate Department of Chennai Corporation. The petitioner submitted a fresh representation on 14.03.2022 seeking extension of lease. In these circumstances, the 3rd respondent herein, who has got personal grievance against the petitioner filed writ petition in W.P.No.3709 of 2023 to consider his representation and remove the unauthorised construction. The said writ petition was disposed of by directing the 3rd respondent therein/Executive Engineer of Greater Chennai Corporation to consider the representation of the petitioner therein namely the 3rd respondent herein and dispose of the



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same on merits within a period of eight weeks.

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5. Pursuant to the said order passed, the 2nd respondent herein without considering the fact that the petitioner is lessee holding over, directed the petitioner to remove the building by passing the impugned order. Therefore, the writ petitioner is before this Court.

6. A perusal of the impugned order passed by the 2nd respondent would suggest that it is in the nature of show cause notice. In the impugned order, the petitioner has been directed to produce the documents to show her alleged lease hold right over the said property along with receipt for payment of rent etc. In alternative, the petitioner was directed to handover possession of the property to the 1st and 2nd respondents/Corporation. Since the impugned order is in the nature of show cause notice, it is for the petitioner to appear before the 2nd respondent with necessary document and convince him about the legality of her occupation in the above said land. It is also open to the petitioner to make fresh representation to the 1st respondent to consider the request for extension of lease. If any such representation is made by the petitioner, it shall be considered by the 1st respondent and



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appropriate orders shall be passed on merits and in accordance with law.

The petitioner is granted two weeks time to submit her representation before the 1st respondent. Till the representation of the petitioner is disposed in accordance with law, the petitioner's possession over the above said land shall not be disturbed.

7. With these observations, the writ petition is disposed of. No costs.

Consequently, the connected miscellaneous petition is closed.

26.07.2023

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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To

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S.SOUNTHAR, J.

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