



W.P.No.19855 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mr.V.LAKSHMINARAYANAN

W.P.No.19855 of 2018

K.Eassa

..Petitioner

Vs

1. The State of Tamilnadu,
rep. by its Secretary- Housing & Urban Development,
Fort St.George,
Chennai.
2. The Member Secretary,
CMDA,
Thalamuthu Natarajan Building,
Egmore,
Chennai - 600 008.
3. Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai - 600 003.
4. Executive Engineer-Zone X,
Corporation of Chennai,
117, NSK Salai,
Kodambakkam,
Chennai - 600 024.



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5. Area Engineer,
Chennai Metropolitan Water Supply & Sewerage Board,
No.1, Pumping Station Road,
Chintadripet,
Chennai - 600 002.

6. The Chairman,
TANGEDCO,
10th Floor, NPKRR Maligai,
114, Anna Salai,
Chennai - 600 002.

7. Assistant Executive Engineer,
TNEB,
Rangarajapuram, Sivan Koil Street,
Kodambakkam,
Chennai - 600 024.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorari to call for the notice dated 06.07.2018 bearing
No.Z.OXI7275/2018 issued by the 4th respondent together with all related
records and quash the same.

For Petitioner : Ms.S.P.Arthi

For Respondents : Mr.P.Gurunathan,
Additional Government Pleader for R1
Mr.C.N.Vinobha,
Standing Counsel for R2
Mr.E.C.Ramesh,
Standing Counsel for R3 & R4
Mrs.K.Vasanthamala for R5



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Mr.S.K.Rameshwar for R6 & R7

Mr.K.Seetharam for R8

ORDER

(The order of the Court was made by V.LAKSHMINARAYANAN,J)

The petitioner claims that he purchased the property at No.6A, Station View Road, Kodambakkam, Chennai-600 024 for running a shop. It is the admitted case of the petitioner that he purchased the property consisting of the ground and first floor. Insofar as the second, third and fourth floor are concerned in paragraph 3 of the affidavit, it is admitted that for the same, no construction plan or permission was ever obtained. He would state that he relied upon the contractor and signed on dotted lines. Taking note of the illegal construction, the 8th respondent filed a writ petition in W.P.No.10011/2018. The said writ petition was for a Mandamus to consider the representation and to direct the respondents 1 and 2 therein namely, the Commissioner, Greater Chennai Corporation and the Executive Engineer, Greater Chennai Corporation to act upon the lock and seal notice dated 24.03.2017. The said writ petition came up for disposal before this Court on 23.04.2018.

2. Considering the limited prayer that was sought for by the 8th



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respondent who was the writ petitioner therein, this Court directed the 2nd respondent, Executive Engineer to put the petitioner as well as the 3rd respondent (who is the writ petitioner before us) on notice and to cause an inspection of the demised premises and if it is found that the building has been constructed in violation of the sanctioned plan, to take appropriate action.

3. The 2nd respondent is said to have inspected the premises on 04.07.2018. Ms.S.P.Arthy, the learned counsel for the petitioner would state that prior to the inspection, as per the order of this Court, no notice was given to her or to the 8th respondent and she would add that being a commercial property as many as 35 employees were available at the premises on 04.07.2018.

4. Seemingly interested to implement the order, the 2nd respondent Executive Engineer, Zone-X, Greater Chennai Corporation, Kodambakkam, Chennai, without full compliance of the order, had inspected the property. In other words, the State respondent had provided a tool to the petitioner, to challenge the very order said to have been passed, allegedly in compliance with the orders of the Court.

5. One thing which is clear from the order as well as the averments



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from the affidavit is that there was a plan for the ground and first floor but the second to fourth floors are entirely without any authorisation or permission. If we were to allow the writ petition it will be as if we will be condoning the act of the writ petitioner of putting up the construction without securing the permission and would amount to granting premium of disobedience to the Town and Country Planning Act and the rules made thereunder. Therefore, while setting aside the order, we are inclined to impose some conditions on the parties before us.

6. As the order dated 05.07.2019, which has been impugned before us is not in compliance with the principles of natural justice as contemplated by this Court in W.P.No.10011/2018, the same is set aside. The 4th respondent (who was the 2nd respondent in the previous writ petition) shall inspect the premises on 07.09.2023. We are fixing the date after taking the convenience of the petitioner as well as the respondents, lest either of the parties plead that they were not aware of the date of inspection.

7. On 07.09.2023, the premises shall be inspected. Since it has been found and admitted by the petitioner that the second to fourth floors are unauthorised, the same shall be sealed immediately. Insofar as the ground and first floor are concerned, the petitioner states that she has applied for



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regularisation under Section 113-C. Therefore, pending consideration of the same, further action shall be deferred. It is made clear that insofar as the second to fourth floors are concerned, the amenities shall be disconnected immediately as the petitioner has admitted and it has been found by the respondent that the same is unauthorised.

8. In fine, the Writ Petition is allowed, with the aforesaid directions.

No costs.

(J.N.B.,J.) (V.L.N,J.)
04.09.2023

Index:Yes/No
Speaking/Non-speaking order
vsi

Note: Issue order copy on 05.09.2023

To

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