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W.P.No.20949 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :31.07.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.20949 of 2023
and W.M.P.Nos.20322 & 21997 of 2023

Sebastian Paul Sankaran. B

...Petitioner

Vs.

1.The Commissioner,
Greater Chennai Corporation, Rippon Building,
Park Town, Chennai – 600 003.

2.The Executive Engineer,
Zone -9, Greater Chennai Corporation,
Nugambakkam, Chennai – 600 034.

3.The Zonal Officer,
Zone -9, Greater Chennai Corporation,
Nugambakkam, Chennai – 600 034.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned notice of the second and third respondents bearing No.001/2022-23 dated 03.05.2023 and quash the same.



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For Petitioner : Mr.M.Sudhan
For Respondents : Mr.A.S.Ragul Adhithya
for Mrs.P.T.Ramadevi
Standing Counsel (GCC)

ORDER

The writ petition is filed challenging the order passed by the third respondent under Section 258 of Chennai City Municipal Corporation Act, 1919, directing the petitioner to demolish the building at K Block Turnbells, 1st cross street, Nandanam, Chennai.

2.The impugned order was assailed by the petitioner mainly on the ground that the same was passed under Repealed Chennai City Municipal Corporation Act, 1991. The Tamil Nadu legislature has passed a new enactment namely Tamil Nadu Urban Local Bodies (Amendment) Act, 2022 and the said Act came into force on 13.04.2023. Section 200 (1) (a) of the new Act repealed the old Chennai City Municipal Corporation Act, 1991. Admittedly, the present notice for demolition was issued by the third respondent on 03.05.2023, after coming into force of new Act. Therefore, the notice issued by the third respondent under Repealed Act cannot be sustained.



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3.The learned counsel for the petitioner also submits that the present impugned order was passed by the respondent without inspecting the building wherein the petitioner has carried out the repair works so as to improve the structural stability of the building.

4.Mr.A.S.Ragul Adhithya for Mrs.P.T.Ramadevi, learned counsel appearing for the respondent Corporation, on written instructions submits that the building was inspected by the experts from Anna University on 28.07.2023 and they have filed a report, stating that the building is not safe for human occupation. The impugned order was passed on 03.05.2023, even prior to the inspection by the experts. Therefore, the subsequent inspection conducted by the experts cannot improve the case of the respondent. Further, the respondent should have furnished the copy of the experts opinion to the petitioner and heard him before passing any adverse order against the petitioner for demolition of the building. In such circumstances, this Court is inclined to set aside the impugned order passed by the third respondent with a direction to him to furnish the copy of the expert's opinion to the petitioner and give him an opportunity to put forth his case on the structural safety of the building and



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then pass fresh orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. The third respondent is also directed to issue notice to the other owners of the building before passing any fresh orders.

5. With the above direction, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

31.07.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No

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To

1. The Assistant Director,
Town and Country Planning Office,
No.124, G.S.T Road,
Municipal Complex,
Chengalpattu.
2. The Commissioner,
Chengalpattu Municipality,
Chengalpattu District.



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S.SOUNTHAR, J.
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