



WEB COPY



W.P.No.26304 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2023
CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mrs.JUSTICE N.MALA

W.P.No.26304 of 2022 and
WMP.No.25367 of 2022

S.Dhanasekara Pandian

.... Petitioner

vs

1. The Secretary to Government,
Housing and Urban Development Department,
Secretariat, Fort St.George, Chennai 600 009.

2.The Additional Secretary,
Housing and Urban Development Department,
Secretariat, Fort St.George,
Chennai 600 009.

3.The Principal Secretary, Commissioner
Greater Chennai Corporation,
Rippon Building,
Chennai 600 003.

4.The Executive Engineer,
Zone X, Greater Chennai Corporation,
Chennai 600 033.

5.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan House,
Egmore, Chennai 600 008.



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(R5 impleaded vide order dt 28.10.2022
made in WMP.Nos.27018/2022)

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents or their agents of anyone claiming though them from locking and sealing and demolishing and interfering with the peaceful possession of the property situate at Door Nos. 53 and 11 of Andiappan Street, West Mambalam, Chennai - 600 033, till the disposal of the appeal of the petitioner dated 14.09.2012 for regularizing the construction.

For Petitioner : Mr.V.Manohar

For Respondents : Mrs.R.L.Karthika
Government Advocate for R1 and R2

Ms.P.T.Ramadevi for R3 and 4

Mr.P.Kumaresan,
Additional Advocate General
assisted by Mr.C.N.Vinobha
standing counsel for R5

ORDER

(Order of the Court was made by J.Nisha Banu,J.)

This Writ Petition has been filed to issue a writ of Mandamus forbearing the respondents from locking and sealing and demolishing and interfering with the peaceful possession of the property till the disposal of the appeal of the petitioner.



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2. The case of the petitioner is that he is the owner of the property in question and carrying his business by residing thereon and he also obtained all statutory licenses from the appropriate authority. While so, in the year 2012 one Mr.Govindaraj, has made complaint against the petitioner by filing a Writ Petition in W.P.No.17312 and 17313 of 2012, wherein this Court has directed the respondents 1 and 2 to consider the representation of the said Govindaraj and dispose of the same in accordance with law. However it is the case of the petitioner that the respondents 3 and 4 without giving any opportunity to the him, had passed an order dated 13.08.2012, for Locking and Sealing and Demolition. Therefore, the petitioner has sent a detailed representation to the respondents 3 and 4 and furthermore sent an application to the 1st respondent dated 14.09.2012, seeking for regularization of the building in question, which is still pending for consideration. On the pendency of the application for regularization, an order dated 24.05.2013 was passed by the 4th respondent to discontinue occupation of the premises and the same was challenged in W.P.No.15467 to 15469 of 2013. The said writ petitions were disposed of by a common order dated 26.11.2013, directed the petitioner to give a fresh appeal and hence the petitioner has made an appeal before the respondents for consideration of regularization. Even though, again the said Govindaraj has



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made a false complaint against the petitioner. Therefore the petitioner left with no other option has approached this Court by filing this Writ Petition to forbear the respondents from locking and sealing and demolishing and interfering with the peaceful possession of the property till the disposal of the appeal.

3. Heard the learned counsel for the petitioner, the learned Government Advocate appearing for the respondents 1 and 2 and the learned counsel for respondents 3 and 4 and the learned Additional Advocate General assisted by the learned counsel for the 5th respondent.

4. It is brought to the knowledge of this Court by the learned Additional Advocate General assisted by the learned standing counsel for the 5th respondent that the appeal filed by the petitioner has been rejected as early as on 13.04.2023 and also undertakes to serve copy of the said order to the learned counsel for the petitioner and he further submitted that since the appeal itself got rejected, no further order is required in this writ petition and prays for dismissal of the same.



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5. In view of the above submission, this Court is of the considered view that since the appeal was rejected by the 2nd respondent, no order can be passed in the present writ petition as it seeks direction to forbear the respondents from interfering with the petitioner's peaceful possession till the disposal of the appeal. Therefore, the Writ Petition is dismissed, however the petitioner is at liberty to challenge the rejection order in the manner known to law before the competent Forum. No costs. Consequently connected miscellaneous petition is closed.

(J.N.B., J.) (N.M., J.)
30.11.2023

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Index : Yes / No

Internet : Yes / No

To

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J.NISHA BANU,J.



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N.MALA,J.

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