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W.P.No.26309 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.26309 of 2022 and
WMP.No.25378 of 2022

D.Ashok Kumar

.... 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.
(R5 impleaded vide order dt 28.10.2022
made in WMP.No.27020/2022)

.... Respondents



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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. 78 of Andiappan Street, West Mambalam, Chennai - 600 033, till the disposal of the extension time petition dated 23.09.2022 by the 1st respondent.

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 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 extension time petition of the petitioner.

2. The case of the petitioner is that he is the owner of the property in question and carrying his business and residing thereon and he also obtained all statutory licenses from the appropriate authority. While so, in the year 2012



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one Mr.Govindaraj, has made complaint against the petitioner by filing the Writ Petition in W.P.No.17312 and 17313 of 2012, wherein this Court 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 had sent a detailed representation to the respondents 3 and 4, stating that he has not carried out any construction contrary to any plan. Inspite of the said representation, an order dated 24.05.2013 was passed 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 further representation for consideration of regularization. Even thereafter, the 2nd respondent has passed an order, disposing the appeal by granting three months time to carry out necessary rectification and obtain planning permission and since the petitioner was not able to carry out the rectification within the stipulated time, he filed an extension of time petition before the respondents 1 and 2. However during the pendency of the extension petition, the said



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Govindaraj has made false complaint against the petitioner and 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 extension petition.

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 at this point of time, the extension time petition filed by the petitioner would have got ordered by the authorities concerned and now after a lapse of nearly one year, nothing survives for further adjudication in this writ petition, which is filed for extension of time 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 there is no instruction as to the order of extension time petition, 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 extension time petition and further no purpose would be served in keeping this Writ Petition pending at this distant point of time. Therefore, the Writ Petition is dismissed, however if the petitioner is aggrieved of the order in the extension time petition, he is at liberty to challenge the 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.)

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Index : Yes / No

Internet : Yes / No



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J.NISHA BANU,J.
and
N.MALA,J.

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To

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