



WEB COPY



WP No. 25899 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2023

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P. No.25899 of 2023
and
WMP.No.25341 of 2023

M.Shanmugam

.. Petitioner

Versus

1. The Director,
Department of Town & Country Planning,
CMDA Office Complex, E&C Market Road,
Koyambedu, Chennai - 600 107.
2. The Regional Deputy Commissioner,
Greater Chennai Corporation (North Region),
No.945, T.H.Road, Tiruvottiyur,
Chennai - 600 019.
3. The Executive Engineer,
Zone - 01, Corporation of Chennai,
Thiruvottriur, Chennai - 600 019.
4. The Assistant Engineer,
Division - 001, Corporation of Chennai,
Thiruvottriur, Chennai - 600 019.
5. The Revenue Divisional Officer,
North Chennai Revenue Division,
Chennai- 600 066.



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6. The Tahsildar,
Tiruvottriyur Taluk,
Tiruvottriyur, Chennai - 600 019.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned notice dated 26.08.2023 Notice No.Z.O.X.C.No./46/2023, passed by the respondents 2 to 4 and to quash the same, consequently direct the respondents to issue patta and to regularize the property of the petitioner bearing Door No.7/4, 1st street, Thiruvalluvar Nagar, Ennore, Chennai - 600 057.

For Petitioner : Mr.C.Prabakaran
For R1, 5 & 6 : Mr.P.Muthukumar,
Government Pleader
For R2 to R4 : Mr.A.C.Manibharathi,
Standing Counsel

ORDER

(Order of the Court was made by **R. MAHADEVAN, J**)

The prayer made in this writ petition is to issue a writ of certiorarified mandamus, to call for the records relating to the notice dated 26.08.2023 issued by the respondents 2 to 4, quash the same and consequently direct the respondents to issue patta and regularize the property of the petitioner bearing Door No.7/4, 1st street, Thiruvalluvar Nagar, Ennore, Chennai - 600 057.



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2. It is the case of the petitioner that he and his neighbours are occupied the land in S.No.20, Kathivakkam Village, then Saidapet Taluk, and are enjoying the same, by putting up construction, for more than 50 years. Based on their long possession, the Government regularized the said house sites through proceedings dated 07.07.1989 of the District Collector, Kanchipuram District and patta was also issued. Pursuant to the same, the petitioner and others obtained basic amenities such as electricity service connection, water connection, etc. and are paying necessary charges regularly to the competent authorities. While so, the respondents 3 & 4 issued a notice dated 27.02.2020 under section 56(1) & 57 r/w section 85 of the Tamil Nadu Town and Country Planning Act, 1971 as amended by Act 61/2008, calling upon the petitioner to produce building plan approval. Upon receipt of the same, the petitioner submitted a detailed reply and requested to drop the further proceedings. Despite the same, the respondents 3 and 4 issued lock and seal and demolition notice dated 18.03.2020 (signed on 21.05.2020) calling upon the petitioner to restore the land to its original condition and stop the further ongoing construction within a period 30 days, failing which, coercive steps of demolition would be taken. Challenging the same, the petitioner preferred WP.No.8919 of 2020, along with others, which was disposed of on 08.07.2020, thereby granting liberty to the petitioner to file revision petition



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under Section 80(A) of the Tamil Nadu Town and Country Planning Act.

While passing the said order, the learned Judge granted an order of *status quo* till the Revision is received by the Government. As per the said order passed in the writ petition, the petitioner filed Revision, which was disposed of, by the Government, *vide* Letter No.1077/UD VI(1)/2022-3 dated 09.06.2023. In the said order, the petitioner was granted three months time to obtain patta and to get necessary approval for his building, failing which, the Corporation of Chennai shall proceed with the further enforcement action as per law. The petitioner further averred that in the mean while, he made a representation to the sixth respondent, requesting to regularise the encroachment made in S.No.20, Kathivakkam Village, Tiruvottriyur Taluk and also update the revenue records, as the regularisation of house sites in the year 1989 itself, was not entered into the revenue records. Upon receipt of the same, the sixth respondent sent a communication to the Assistant Land Settlement Officer, Chepauk, Chennai for taking necessary action. However, nothing progressed. In these circumstances, the respondents 2 to 4 issued the impugned notice dated 26.08.2023, under section 128 read with Tamil Nadu Urban Local Bodies Act, 1998, calling upon the petitioner to show cause as to why he should not be removed from the subject land. Feeling aggrieved, the petitioner has come up with the present writ petition before this Court.



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3. The learned counsel for the petitioner pointed out that as directed by this court in WP.No.8919 of 2020, the petitioner preferred the revision before the Government and the same was disposed of on 09.06.2023, by which, the petitioner was granted three months time to approach the competent authorities for getting patta and necessary approval in respect of the subject land and building and that, the said order is in force till date. Superseding the said order, and without providing any opportunity to the petitioner, the respondent authorities issued the impugned notice dated 26.08.2023, which is arbitrary, illegal and in violation of the principles of natural justice and hence, the same will have to be set aside. It is also submitted that the petitioner has already approached the Corporation department, revenue department and survey department seeking issuance of patta and regularisation of his building, as he is in possession and enjoyment of the property for more than 35 years, however, the same are pending without any progress, while so, the impugned notice issued by the respondent authorities, without any application of mind, is unwarranted.

4. On the above submissions, we have heard the learned counsel appearing for the respondents and also perused the documents enclosed in the typed set of papers.



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5. It is seen that as per the order of this court dated 08.07.2020 in WP.No.8919 of 2020, the petitioner along with others, preferred revision along with stay application under section 80(A) and 80(A)(3) of the Tamil Nadu Town and Country Planning Act, 1971, before the Government and the same were disposed of, by the Secretary, Housing and Urban Development Department, Chennai, vide Letter No.1077/UD VI(1)/2022-3, dated 09.06.2023, the operative portion of which, reads as follows:

"6.After careful consideration of facts and submissions made, the Government hereby grant three months time to all the four revision petitioners Tvl.M.Shanmugam, E.Sampath, R.G.Nagappan and M.Ponnuvel to obtain patta and to get necessary approval for their respective buildings at Door Nos.7/4, 3/1 and 6/9 from the concerned authority, failing which Greater Chennai Corporation shall proceed with further enforcement action as per the provision of Tamil Nadu Town and Country Planning Act, 1971."

It is evident from the above order that the Government has granted three months to the petitioner to obtain patta and get necessary approval for his building and the same is in force, till 08.09.2023. It is also evident from the communications enclosed at pages 42 to 62 of the typed set of papers filed in the writ petition that the petitioner has been taking diligent steps by approaching the competent authorities in this regard. As such, the notice dated 26.08.2023 issued by the respondents 2 to 4, at this point of time, cannot be allowed to be sustained and hence, the same is set aside. Consequently, the matter is remitted back to the authority concerned for fresh consideration, who inturn, shall act strictly in accordance with the order passed by the Secretary,



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Housing and Urban Development Department, Chennai *vide* Letter

No.1077/UD VI(1)/2022-3, dated 09.06.2023 and as per law.

6. Accordingly, this writ petition stands disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

(R.M.D., J.) (M.S.Q., J.)
01.09.2023

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Internet : Yes / No

Index : Yes/No

To

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