



WEB COPY



W.P.No.34863 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

Writ Petition No.34863 of 2022
and W.M.P.No.34274 of 2022

Dr.Vijay Shankar

.. Petitioner

Vs.

1.The Member Secretary
Chennai Metropolitan
Development Authority
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road
Egmore, Chennai-600 008.

2.The Principal Secretary
Housing and Urban
Development Department
Government of Tamil Nadu
Fort St. George
Secretariat Buildings
Chennai 600 009.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for records of



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the 1st respondent relating to the impugned notice in Letter No.EC/C-I/10939/2022 dated 28.10.2022 and seeking our gate on west side should not be demolished or removed or interfered and quash the same.

For Petitioner : Mr.K.Gajendran

For R1 : Mr.C.N.Vinobha
Standing Counsel

For R2 : Mr.E.Vijay Anand
Additional Govt. Pleader

ORDER

(Order of the Court was delivered by V.M.VELUMANI,J.)

This writ petition is filed by the petitioner challenging the impugned notice in Letter No.EC/C-I/10939/2022 dated 28.10.2022 and seeking their gate on west side should not be demolished or removed or interfered.

2.By consent of the learned counsel appearing for the petitioner and Mr.C.N.Vinobha, learned Standing Counsel, who takes notice for the 1st respondent and Mr.E.Vijay Anand, learned Additional Government Pleader, who takes notice for the 2nd respondent, the Writ Petition is taken up for final disposal at the stage of admission itself.



3.Heard the learned counsel appearing for the petitioner as well as the learned Standing Counsel appearing for the 1st respondent and learned Additional Government Pleader appearing for the 2nd respondent and perused the entire materials available on record.

4.The petitioner is challenging the notice issued by the 1st respondent under Sections 56 and 57 read with 85 of the Town and Country Planning Act. In the said notice, the 1st respondent has pointed out certain deviations and violations from the approved plan. According to the petitioner, the said notice was not served on him, but it was affixed on the outer wall of his premises as he was out of station. In the writ petition, the petitioner has stated that he has not put up any new construction, he had only renovated old rear gate put up by the builder in the year 1985. The contention of the learned counsel appearing for the petitioner is that constructions mentioned in the notice were put up as per the approved plan of the year 1985 and the petitioner has purchased the property only in the year 2002.

5.Mr.C.N.Vinobha, learned Standing Counsel appearing for the 1st respondent submitted that the petitioner has renovated the building



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without any permission deviating approved plan. In such circumstances, the impugned notice has been issued and prayed for dismissal of the writ petition.

6.From the materials on record, it is seen that the 1st respondent has pointed out certain deviations and additional construction in the property and called upon the petitioner to remove the same within 30 days. According to the learned counsel appearing for the petitioner, the said constructions were put up only as per approved plan and he has not put up any new construction. In view of the stand taken by the petitioner, it is for the petitioner to submit his explanation to the 1st respondent. The petitioner is claiming that notice was not served on him and it was affixed on the outer wall of his premises. Therefore, the petitioner is given two weeks time to submit his explanation taking all the defences available to him to the 1st respondent from the date of receipt of a copy of this order enclosing all the supporting documents. If any such explanation is given, the 1st respondent is directed to consider the same and pass appropriate orders within four weeks thereafter. Till such time, the 1st respondent is restrained from taking further action based on the impugned notice issued to him.



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7. With the above directions, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

(V.M.V., J) (R.H., J)
02.01.2023

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To

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**V.M.VELUMANI,J.
and
R.HEMALATHA,J.**

Kj

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