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W.P.No.32748 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2023

CORAM

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

W.P.No.32748 of 2023

and

W.M.P.Nos.32357 & 32358 of 2023

Hemanth Kumar
S/o Pazhani

.... Petitioner

vs

1. The Additional Secretary (Technical)
Housing and Urban Development Department,
Secretariat, Chennai - 600 009.
2. The Principal Secretary/Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai - 600 003.
3. The Executive Engineer,
Zone-3, Greater Chennai Corporation,
No.1, Thattankulam Street, Bazaar Road,
Madhavaram, Chennai - 600 067.
4. Assistant Executive Engineer (Unit-07)
Zone-3, Greater Chennai Corporation,
No.1, Thattankulam Street, Bazaar Road,
Madhavaram, Chennai - 600 067.
5. Assistant Engineer (Div 028)



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Zone-3, Greater Chennai Corporation,
No.1, Thattankulam Street, Bazaar Road,
Madhavaram,
Chennai - 600 067.

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the 1st respondent to dispose of the Appeal Letter bearing No.5902877/UD-VI(1)/2023-1 dated 25.10.2023 within a time to be fixed by this Hon'ble Court by following principles of natural justice in accordance with Section 80A of Tamil Nadu Town and Country Planning Act, 1971 within the time to be fixed by this Hon'ble Court.

For Petitioner : Mr.R.Arvind Srevatsa

For Respondents : Mrs.R.L.Karthika,
Government Advocate for R1
Mr.D.B.R.Prabu,
Standing Counsel for R2 to R5

ORDER

(Order of the Court was made by J.NISHA BANU, J.,)

Mrs.R.LKarthika, learned Government Advocate takes notice for the 1st respondent. Mr.D.B.R.Prabu, learned Standing Counsel takes notice for the 2nd to 5th respondents. By consent of both parties, the main writ petition is taken up and disposed of at the admission stage itself.

2. This Writ Petition has been filed to issue a Writ of Mandamus to direct the 1st respondent to dispose of the Appeal Letter bearing No.5902877/UD-VI(1)/2023-1 dated 25.10.2023 within a time to be fixed by



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this Hon'ble Court by following principles of natural justice in accordance with Section 80A of Tamil Nadu Town and Country Planning Act, 1971.

3. The case of the petitioner is that he is the absolute owner of the property located at 11, KK Nagar, MRH Road, Madhavaram, Chennai - 600060 by way of sale deed executed on 01.09.2020 vide document No.4421/2020. The property contains shops with cement sheet roof ceiling. In November 2022, the cement sheet roof were damaged due to severe weather conditions. The petitioner replaced the damaged roofing with reinforced cement concrete as a renovation and remedial measure to ensure the property's safety and stability. On 17.04.2023, the 4th and 5th issued Stop Work Notice and requested for approved plan. The petitioner sent reply on 09.05.2023. Thereafter, no action was taken and the petitioner believed that the officials were satisfied with their explanation. But to the petitioner's shock and surprise, he received De-occupation notice dated 19.09.2023 making reference to an alleged Lock and Seal notice dated 17.08.2023 which was not served on the petitioner. The petitioner filed application under 80-A before the 1st respondent on 19.10.2023. The petitioner submits that pending application under Section 80A of the Act, the respondents have illegally secured the subject property on 26.10.2023 without serving any notice..



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Hence, the present writ petition has been filed with the aforesaid relief.

4. The De-occupation notice dated 19.09.2023 was issued to the petitioner, making reference to Lock and Seal notice dated 17.08.2023, which according to the petitioner, was not served on him. The petitioner had filed an application under Section 80-A of the Act before the 1st respondent on 19.10.2023. However, the subject property was secured by the respondents on 26.10.2023.

5. Since the petitioner has filed an appeal under section 80-A of Tamil Nadu Town and Country Planning Act, 1971, without going into the merits of the claim made by the petitioner, if the appeal is still pending with the 1st respondent, the 1st respondent is directed to pass orders on the same on merits in accordance with law, within a period of two weeks from the date of receipt of a copy of this order. Accordingly, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

(J.N.B., J.) (N.M., J.)
21.11.2023

vsi

Index : Yes / No

Internet : Yes / No

Note: Issue order copy on 22.11.2023



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- To
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