



WEB COPY



W.P.No.7781 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

and

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.No.7781 of 2023

R.Sajith Basha

.. Petitioner

Vs.

1.The Secretary,
Department of Housing and Urban Development,
St. George fort, Secretariat,
Chennai – 600 009.

2.The Commissioner,
The Greater Chennai Corporation,
Ripon Buildings,
Chennai – 600 002.

3.M.Venkatesh

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents 1 & 2 herein to remove the unauthorized construction of the 3rd respondent herein built in Door No.47/22, Manja Kollai Street, Aminjikarai, Chennai – 600 029.

For Petitioner

: Mr.A.Udhayachandiran



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For R1 : A.Selvendran
Special Government Pleader

For R2 : Mr.D.B.R.Prabhu
Standing Counsel

ORDER

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

The petitioner has come out with the present Writ Petition for a direction to the respondents 1 & 2 to remove the unauthorized construction put up by the 3rd respondent in Door No.47/22, Manja Kollai Street, Aminjikarai, Chennai – 600 029.

2.By consent of the learned counsel appearing for the petitioner, Mr.A.Selvendran, learned Special Government Pleader, who takes notice for the 1st respondent and Mr.D.B.R.Prabhu, learned Standing Counsel, who takes notice for 2nd respondent, this Writ Petition is taken up for final disposal at the admission stage itself.

3.Heard the learned counsel appearing for the parties and perused the entire materials on record.



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4.The learned counsel appearing for the petitioner submitted that the petitioner is residing at No.45/28, Manja Kollai Street, Aminjikarai, Chennai – 600 029. The said area is classified as Government Poramboke in the revenue records. Most of the land owners constructed up to two floors without any permission and building plan. In the year 1996, the Tamil Nadu Slum Clearance Board constructed asbestos roof houses under the “Kal – nor” housing scheme and provided separate door numbers for all the residents in that area. The petitioner is also residing in the asbestos roofed house. While so, the 3rd respondent, purchased a house adjacent to the petitioner house. After purchase, without putting any foundation, the 3rd respondent removed the asbestos roof and constructed 1st and 2nd floor with an extent of 64.68 sq.mts in the ground, 1st and 2nd floor, without obtaining any approval and permission from the planning authority. The said construction is without any pillars. Due to natural calamities, the building put up by the 3rd respondent may collapse at any time and the petitioner's property will also be damaged. Hence, the petitioner sent representations dated 24.09.2020 to the Zonal Officer, Zone-8, Corporation of Chennai, 19.10.2020 to the District Collector, Chennai, 06.02.2021 & 13.02.2021 to the 1st respondent herein to take



action against the 3rd respondent. The 2nd respondent issued lock and seal notice dated 20.10.2020, under Sections 56, 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 and issued de-occupation notice dated 21.11.2020, to the 3rd respondent. Subsequently, the 2nd respondent did not take any further action. The petitioner obtained information under Right To Information Act, 2005 from the 1st respondent that the 3rd respondent filed appeal under Section 81 of the Tamil Nadu Town and Country Planning Act, 1971 for extension of time to modify the construction and seeks time to modify the building. The construction put up by the 3rd respondent is unauthorized one and hence, the petitioner has come out with the present Writ Petition.

5.From the above materials, it is seen that the 2nd respondent issued lock and seal notice dated 20.10.2020, followed by de-occupation notice dated 21.11.2020 to the 3rd respondent and subsequently, the 2nd respondent did not take any action. From the information furnished by the 1st respondent, it is seen that the 3rd respondent has filed appeal under Section 81 of the Tamil Nadu Town and Country Planning Act, 1971 and seeks extension of time to modify the construction.

6.Considering the above materials and notices issued by the 2nd



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respondent, it is seen that the construction put up by the 3rd respondent is unauthorised. In view of the same, the 2nd respondent is directed to take further action against the unauthorized construction put up by the 3rd respondent after issuing notice to the 3rd respondent. If any appeal filed by the 3rd respondent is pending before the 1st respondent, the 1st respondent is directed to consider the same and pass orders as expeditiously as possible, within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above directions, the Writ Petition is disposed of. No costs.

(V.M.V., J) (V.L.N., J)
15.03.2023

krk

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

To

1. The Secretary,
Department of Housing and Urban Development,
St. George fort, Secretariat,
Chennai – 600 009.

V.M.VELUMANI, J.



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and

V.LAKSHMINARAYANAN, J.

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2.The Commissioner,
The Greater Chennai Corporation,
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