



W.P.No.35703 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2023

CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MRS. JUSTICE N.MALA**

**W.P.No.35703 of 2019
and W.M.P.No.36623 of 2019**

K.M.GANESH

... Petitioner

Vs.

1. The Executive Engineer,
Zone -X, Greater Corporation of Chennai,
No.117, N.S.K. Salai,
Kodambakkam, Chennai - 600 024

2. The Assistant Executive Engineer,
Unit -29, zone- X,
Greater Corporation of Chennai,
No.117, N.S.K. Salai,
Kodambakkam, Chennai - 600 024

3. Junior Engineer,
Division -128, Unit -29,
Greater Corporation of Chennai,
No.117, N.S.K. Salai,
Kodambakkam, Chennai - 600 024

4. THE CHENNAI METROPOLITAN DEVELOPMENT AUTHORITY,
Egmore, Chennai.

(R4 SUO MOTU IMPEADED VIDE ORDER DT 18.07.2023 MADE IN
WP.35703/2019 BY JNBJ, NMJ)

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned notice in Notice No. 10/00594/2019 dated 10.12.2019 on the file of the respondents, quash the same and consequently direct the respondents not to take any further action of locking and sealing of the building at No.22, Mariamman Koil Street, West K.K.Nagar, Chennai 600 078.

For Petitioner : Mr.S.Santhan

For Respondents : Mr.G.T.Subramanian
Standing Counsel for RR1 to 3
Mr.C.N.Vinobha
Standing Counsel for R4

ORDER

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

This Writ Petition has been filed for issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned notice in Notice No. 10/00594/2019 dated 10.12.2019 on the file of the respondents, quash the same and consequently direct the respondents not to take any further action of locking and sealing of the building at No.22, Mariamman Koil Street, West K.K.Nagar, Chennai 600 078.



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2.It is averred in the writ petition that the petitioner's mother – Indira Kumarappan had purchased the property situated in Plot Nos.9, 9A and 10A, comprised in Survey No.206/2, 206/3 and 207/1 T.S.No.77 at Virugambakkam Village, Guindy – Mambalam Taluk, vide sale deed dated 11.05.1987, 31.05.1987, 03.06.1987 and 31.03.1987. Thereafter, petitioner's mother obtained building plan approval in the year 1997 vide approval No.524/1997 dated 31.01.1997 for the ground and first floor. After obtaining necessary approval, petitioner's mother constructed the building consists of ground and first floor, in the year 1997 itself. While so, the petitioner's mother died on 07.07.2011, intestate leaving the petitioner's father and his sisters as her legal heirs and they jointly enjoyed the property. Subsequently, in the year 2015, the other legal heirs had executed the release deed dated 31.06.2015 in favour of the petitioner and hence the petitioner became the absolute owner of the above mentioned land and building.

3.Since the petitioner interested in sports activities, he developed a shuttle cock ground in the vacant second floor space. In order to prevent the air flow, which hampering the ball movement, the petitioner had raised a temporary structure for the shuttle cock ground, which was objected by the



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petitioner's neighbour flat owner, due to jealousy. On his representation and influence, the respondents herein had caused a notice under Sections 56 & 57 of the Tamil Nadu Town and Country Planning Act, 1971.

4. Aggrieved over the above said notice, the petitioner had preferred an appeal before the Government and the same was disposed vide order dated 21.02.2017, stating as follows:-

“.....4.It is also observed that the building is stated to be existence since 1997 and the building contains violation in respect of planning parameters viz., setbacks, floor area etc.,.

5. Therefore, the Government after careful consideration hereby reject the appeal of Thiru.K.M.Ganesh against the Locking & Sealing and Demolition Notice issued by Corporation of Chennai without affecting his right to apply for regularisation of his building under 113 – C of Tamil Nadu Town and Country Planning Act, 1971 as and when the rules are notified.....”

5. As against the order of appeal, the petitioner has filed an application under Section 113 – C of the Tamil Nadu Town and Country Planning Act,



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1971 (in short “the Act”) for regularisation before the The Member Secretary, Chennai Metropolitan Development Authority, Chennai/ 4th respondent and the same is pending. Hence, the present Writ Petition.

6.Heard the learned counsel on either side and perused the materials available on record.

7.It is submitted that the petitioner has filed an application for regularisation u/s.113-C of the Tamil Nadu Town and Country Planning Act, before the Chennai Metropolitan Development Authority/ 4th respondent in the year 2019 itself. In the meantime, the Government Order permitting regularisation is set aside by this Court and now, the matter is subjudice before the Hon'ble Supreme Court.

8.The learned Standing Counsel appearing for the 4th respondent relied on the judgment of this court dated **27.07.2023 in W.P.No.9725 of 2017** and prayed this court to take a similar view in this matter.

9.The Hon'ble First Bench of this court in *W.P.No.9725 of 2017* by



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order dated 27.07.2023 [K.Perumal Vs. The State of Tamil Nadu, Rep.by the Secretary to Government and others], while dealing with the writ petitions seeking directions to enforce the locking and sealing and demolition notice, held as under:-

“3.We have disposed of other writ petitions, with an observation that, “if subsequently after the orders are passed by the Apex Court and the petitioners have any remedy open, they are entitled to agitate the same afresh. In that event, all contentions are kept open”. We have observed that the parties may take steps pursuant to the judgment of the Apex Court.

4.In case, after the judgment of the Apex Court, if it is found that the fifth respondent is not entitled for regularisation, then the petitioner may agitate afresh.”

10.In view of the fact that the matter regarding regularization is seized of by the Hon'ble Supreme Court, the only remedy open to the petitioner is to await the orders of the Supreme Court. The petitioner is entitled to agitate the issue afresh after the orders are passed by the Supreme Court, on the subject matter. Accordingly, the writ petition is disposed of. No costs. Consequently



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connected miscellaneous petition is closed.

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(J.N.B,J.) (N.M, J.)
12.10.2023

Index : Yes / No
Internet : Yes / No
Speaking order/Non-speaking order
Neutral Citation : Yes / No
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