



W.P. No. 8188 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 27.03.2024**

**CORAM**

**THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU**

**W.P. No. 8188 of 2024**

**and**

**W.M.P. No. 9138 of 2024**

Samrudhi M Kothari,  
Represented by its Power Agent, Saila M. Kothari,  
Door No. 3/3, Hanumanthrayan Lane,  
Edapalayam, Sowcarpet,  
Chennai - 600003.

... Petitioner

-VS-

1. The Commissioner,  
Corporation of Chennai,  
Chennai - 600003.
2. The Executive Officer,  
Corporation of Chennai,  
Zone V, No. 62, Basin Bridge Road,  
Old Washermanpet,  
Chennai - 600021.
3. Sethumadavan
4. Velmurugan
5. R.Ravi
6. Dutta
7. P.K.Koli  
Respondents

...



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W.P. No. 8188 of 2024



W.P. No. 8188 of 2024

**Prayer:-** Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the First Respondent to pass orders on the Petitioner's representation dated 12.10.2020 and reminder dated 20.07.2023 by taking necessary action on the same in accordance with Section 258 of the Chennai City Municipal Corporation Act, 1919.

For Petitioner : Mr. Sai Srujan Tayi  
For Respondents : Mrs. P.T.Ramadevi,  
Standing Counsel (for R1 & R2)

### **ORDER**

Heard Mr. Sai Srujan Tayi, Learned Counsel for the Petitioner and Mrs. P.T.Ramadevi, Learned Standing Counsel, who takes notice for the First and Second Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, who claims to be the owner of the property situated at Door No. 4, Anumantharayan Lane, off N.S.C. Bose Road, Park Town, Chennai, had made representation dated 12.10.2020 followed by reminder dated 20.07.2022 to take legal action to demolish the building in that property in the exercise of powers under Section 258 of the Chennai City Municipal



W.P. No. 8188 of 2024

Corporation Act, 1919, but as it did not evoke any response, it has necessitated the filing of this Writ Petition.

3. It is borne out from the materials placed on record that the Petitioner has described his property as Door No. 4 in the affidavit filed in support of the Writ Petition, but as Door No. 3 in the aforesaid representations. Though it is sought to be explained by Learned Counsel for the Petitioner that the door number of the property has been re-numbered, there is nothing available to substantiate it.

4. As rightly pointed out by the Learned Counsel appearing for the First and Second Respondents from the materials borne out of the record that as the Third to Seventh Respondents are now in occupation as tenants of the said property belonging to the Petitioner, it is incumbent upon him to follow the prescribed procedure under the relevant statutory provisions for terminating the lease and evict the Third to Seventh Respondents from that property and thereafter make an application in terms of Section 133 of the Tamil Nadu Urban Local Bodies Act, 1998, which has come into force with effect from 13.04.2023, for demolition of the building in the property. In the absence of the Petitioner complying with those mandatory requirements, the First and Second Respondents cannot be faulted for not taking action for demolition of the



W.P. No. 8188 of 2024

building in that property.

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5. In this context, reference must be made to the dictum laid down by the Hon'ble Supreme Court of India in the decision in ***Director of Settlements, A.P. -vs- M.R. Apparao*** [(2002) 4 SCC 638], which reads as follows:-

17. .... One of the conditions for exercising power under Article 226 for issuance of a mandamus is that the Court must come to the conclusion that the aggrieved person has a legal right, which entitles him to any of the rights and that such right has been infringed. In other words, existence of a legal right of a citizen and performance of any corresponding legal duty by the State or any public authority, could be enforced by issuance of a writ of mandamus. “Mandamus” means a command. It differs from the writs of prohibition or certiorari in its demand for some activity on the part of the body or person to whom it is addressed. Mandamus is a command issued to direct any person, corporation, inferior courts or Government, requiring him or them to do some particular thing therein specified which appertains to his or their office and is in the nature of a public duty. A mandamus is available against



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any public authority including administrative and local bodies, and it would lie to any person who is under a duty imposed by a statute or by the common law to do a particular act. In order to obtain a writ or order in the nature of mandamus, the applicant has to satisfy that he has a legal right to the performance of a legal duty by the party against whom the mandamus is sought and such right must be subsisting on the date of the petition (**Kalyan Singh -vs- State of U.P.** (AIR 1962 SC 1183). The duty that may be enjoined by mandamus may be one imposed by the Constitution, a statute, common law or by rules or orders having the force of law....

Applying the aforesaid principles to the facts of this case *viz-a-viz* the cogent reasons assigned for refusing to accede to the claim made by the Petitioner, there does not appear to be any justification to direct the First Respondent to dispose the representations dated 12.10.2020 and 20.07.2022 made by the Petitioner as sought in the Writ Petition. However, it is made clear that no view has been expressed by the Court on the merits of the controversy involved in the matter.



W.P. No. 8188 of 2024

In the result, the Writ Petition is dismissed with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed. No costs.

27.03.2024

Index: Yes/No

NCC: Yes/No

**Note: Issue order copy by 05.06.2024.**

pal

To

1. The Commissioner,  
Corporation of Chennai,  
Chennai - 600003.
2. The Executive Officer,  
Corporation of Chennai,  
Zone V, No. 62, Basin Bridge Road,  
Old Washermanpet,  
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**W.P. No. 8188 of 2024**

**P.D. AUDIKESAVALU, J.**

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**W.P. No. 8188 of 2024**

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