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W.P. No. 6422 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2024

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

W.P. No. 6422 of 2024

and

W.M.P. No. 7143 of 2024

G.Venkatesh Raju

... Petitioner

-VS-

1. The Commissioner cum Estate Officer,
Greater Chennai Corporation,
Ripon Building, Chennai - 600 003.
2. The Joint Commissioner, North Zone cum Estate Officer,
Greater Chennai Corporation,
Land and Estate Department,
Ripon Building, Chennai - 600 003.
3. The Revenue Officer Land & Estate,
Ripon Building,
Chennai - 600 003.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, forbearing the Respondents from in any manner locking and sealing the property situated at Door No. 246, Wall Tax Road, Chennai - 600 003, by forcibly evicting the Petitioner from the subject property without complying the order dated 13.08.2010 passed by this Court in W.P. No. 13913 of 2010.



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For Petitioner : Mr. R.Abdul Mubeen

For Respondents : Ms. K.Ashwini Devi

ORDER

Heard Mr. R.Abdul Mubeen, Learned Counsel for the Petitioner and Ms. K.Ashwini Devi, Learned Counsel, who takes notice for the Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. It is borne out from the materials placed on record that the First Respondent had issued Notice in Ni.Ma.Vu.Thu.Na.Ka.No. LE4/65887/75 dated 17.09.2009 in prescribed Form-A to one K.Subburathanamma treating her as 'unauthorized occupant' to show cause against orders of eviction and payment of damages on account of use and occupation under Sections 4 and 7 respectively of the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975 (hereinafter referred to as 'the TNPP Act' for short), from the property belonging to the First Respondent situate at No. 246, Wall Tax Road, Chennai – 600003 (hereinafter referred to as 'the property' for short), which was challenged by the said K.Subburathanamma in the Writ Petition in



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W.P. No. 13913 of 2010 before this Court and was disposed by order dated

13.08.2010, which reads as follows:-

3. The petitioner has come up with the present writ petition for a Certiorarified Mandamus calling for the records relating to order made in Ne.Ma.Uu.Thu.Na.Ka. No. L.E4/65887/75 dated 17.09.2009 passed by the respondent and quash the same. And consequently forbear the respondent from interfering with her possession and enjoyment or demolishing the property bearing door No. 246, Wall Tax Road, Chennai 600 003.

4. However, it is submitted by the learned Additional Advocate General appearing for the respondent that orders were already passed in this matter, pursuant to the 4(1) notification. But, the learned counsel appearing for the petitioner disputed about the same.

5. Further, the learned Additional Advocate General submitted that whatever order that has been passed against the petitioner will not be enforced and the petitioner will be offered a chance to



place all her submissions by calling her for an enquiry and the petitioner can participate in the enquiry. On doing so, the orders will be passed.

6. In view of the above submissions made by the learned Additional Advocate General, by consent the following order is passed:

- (a) The respondent shall cause notice to the petitioner by registered post with acknowledgment due, within a period of two weeks from the date of receipt of a copy of this order, asking the petitioner to appear for the enquiry.
- (b) On receipt of the same, the petitioner is directed to appear before the respondent and place all her objections on the date of enquiry.
- (c) After hearing the petitioner and after considering the objections, the respondent is directed to pass appropriate orders on merits and in accordance with law, within a period of three months thereafter.
- (d) If the order passed is adverse to the petitioner, it is open to



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the petitioner to challenge the same in the manner known to law.

7. The writ petition is disposed of accordingly. Consequently, connected miscellaneous petitions are closed. However, no orders as to costs.

3. It is the case of the Petitioner that he is the husband's brother's son of the said K.Subburathanamma, who continued to be in occupation of the property, and had executed a will dated 05.11.2015 bequeathing that property in his favour, and long thereafter, the Notice in Proceedings in Ni.Ma.Vu.Thu.Na.Ka. No. E4/65887/2000 dated 02.11.2021 has been sent to the said K.Subburathanamma calling upon her to pay a sum of Rs. 34,000/- towards damages for use and occupation of the property for the period from 01.04.1989 to 31.03.2018 within seven days from the date of receipt of its copy and that the damages for use and occupation of the property for the period from 01.04.2018 to 31.03.2021 would be claimed later. In that backdrop, the Petitioner claims to have made a representation dated 13.01.2024 to the Second Respondent not to treat him as unauthorized occupant and further desist from levying damages



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arbitrarily and has filed this Writ Petition on 08.02.2014 seeking to restrain the Respondents from in any manner locking and sealing the property by forcibly evicting him from that property without complying with the order dated 13.08.2010 in W.P. No. 13913 of 2010 passed by this Court.

4. At the outset, it must be pointed out that though the Petitioner claims that the said K.Subbarathanamma had executed a will dated 05.11.2015 bequeathing the property in his favour, it has not been explained as to how that property has devolved upon him in the absence of any averment of subsequent death of the said K.Subbarathanamma.

5. Having regard to the aforesaid fact situation coupled with the passage of time, it is imminent that the Respondents would have to conduct necessary enquiry as to the persons in actual occupation of the property as on date and depending upon its outcome, determine the further course of action to be adopted for resuming the property and recovering damages for use and occupation of the property from them in accordance with law. If it is found during that the exercise, that it is the Petitioner, who is now in unauthorized occupation of the property, fresh proceedings under the TNPP Act for eviction and recovery of damages for use and occupation of the property for the relevant



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period would have to be initiated following the prescribed procedure after due notice and affording full opportunity of personal hearing to him in consonance with the principles of natural justice.

In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

15.03.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 31.05.2024.

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To

1. The Commissioner cum Estate Officer,
Greater Chennai Corporation,
Ripon Building,
Chennai - 600 003.
2. The Joint Commissioner, North Zone cum Estate Officer,
Greater Chennai Corporation,
Land and Estate Department,
Ripon Building,
Chennai - 600 003.
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P.D. AUDIKESAVALU, J.

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