



WEB COPY



W.P.No.6726 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2024

CORAM:

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

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1. Vijayakumar
S/o Narayana Rao

2. Gyanchand
S/o Mothilal Chand

.. Petitioners

-VS-

1. Executive Engineer / Zone-IX
Greater Chennai Corporation
1, Lake Area, 4th Cross Street
Nungambakkam
Chennai 600 034

2. Director
Town and Country Planning Act
807, Anna Salai
Chennai

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for records of the 1st respondent on issuing the impugned order in their proceedings letter no.ZONE-XI/DN-118/TPENF/10/2019 dated 28.01.2020



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quash the same and forbearing the 1st respondent issuing notice for locking and sealing and demolishing under Sections 56 and 57 Town and Country Planning Act till disposal of the petitioners petition about this dispute before the Hon'ble Court.

For Petitioners :: Mr.M.R.Sheik Abdul Rahim

For Respondents :: Mr.D.B.R.Prabhu
Standing Counsel for R1
Mr.M.Bindran
Additional Government Pleader
for R2

ORDER

(Order of the Court was made by S.S.SUNDAR,J.)

This writ petition is filed to quash the impugned proceedings of the first respondent dated 28.01.2020 and to forbear the first respondent from taking any further action consequent to the notice for locking and sealing and demolishing the premises under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971.

2. The petitioners in the writ petition are the landlord and tenant in respect of the premises, which according to the first petitioner is an ancestral property. It is the case of the petitioners that the predecessor-in-



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interest, after constructing a shed measuring about 3000 square feet, has obtained planning permission dated 01.07.1978. It is the further case that the first petitioner is in possession and enjoyment of the property without any interference for more than 50 years and that he has let out the same to the second petitioner. It is the further case of the petitioners that based on the frivolous complaint and with ulterior motive, the first respondent has issued the impugned proceedings dated 28.01.2020, whereunder the petitioners were called upon to secure compliance of the sanctioned plan. The petitioners apprehend further action under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, if they fail to secure the sanctioned plan. Stating that the building was constructed pursuant to the approved plan, the petitioners submitted a representation to the first respondent along with documents. Despite their representation to preserve status quo, it appears that the respondents have threatened them with dire consequences and therefore the petitioners state that they are constrained to file the present writ petition.

3. The respondents have not filed any counter affidavit. Even though



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no interim order was prayed for by the petitioners, this Court suo motu granted stay of operation of the impugned proceedings while admitting the writ petition. When the matter appeared before this Court earlier on 23.11.2023, the petitioners were directed to produce the approved plan. Pursuant to the same, the petitioners have produced the xerox copy of the approved plan. The fact that the construction in respect of which action had been initiated by the respondents was authorized and that there was an approved plan, is not in dispute. It is in the said circumstances, this Court finds that the first respondent has issued the impugned notice without an application of mind and without considering the relevant records which are expected to be with the official respondents. The practice of issuing show cause notice or initiating proceedings for locking and sealing or demolition of the building merely on assumption is deprecated. The respondents are entitled to initiate appropriate action wherever there is illegal construction after verifying the records and after causing spot inspection. It is seen that in many cases the official respondents, even before requiring the owner of the building to respond whether the building has any approved plan, are issuing show cause notice on assumption that the building is not authorized.



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It is for the respondents to keep their own records and verify them before proceeding for coercive action, as such actions are likely to affect the civil rights and cause irreparable loss/damage to the parties. The persons who put up construction with permission should not be under threat of coercive action on the basis of anonymous complaint or complaints by neighbours. For the reasons aforesaid, the writ petition is allowed and the impugned order is set aside. Consequently, W.M.P.No.7996 of 2020 is closed. No costs.

Index : yes/no

(S.S.S.R.,J.)

(N.S.,J.)

Neutral citation : yes/no

30.01.2024

SS

To

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