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W.P.No.11339 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2024

CORAM :

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

W.P.No.11339 of 2024

S.Thiagarajan .. Petitioner
v.

1. The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building
No.2, Gandhi Irwin Road
Egmore, Chennai 600 008
2. The Commissioner
Corporation of Chennai
Rippon Building, Park Town
Chennai 600 003
3. The Housing and Urban Development Department
rep.by its Secretary
Government of Tamil Nadu
Fort St.George, Chennai 600 009
4. Manibhadra Enclave Flat
Owner's Association
No.121, Anna Pillai Street
Sowcarpet, Chennai 600 079 .. Respondents



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Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the first respondent to consider petitioner's representation dated 04.04.2024, further direct the first respondent to take action based on the de-occupation notice dated 18.03.2024 issued to the fourth respondent who have not de-occupied the premises viz., Ground floor + 5 floors shop and residential building with 15 dwelling units at old No.121, New No.92, Anna Pillai Street, Chennai 600 079 comprised in R.S.No.6774 and 6775 Block No.58 of George Town within the limits of Greater Chennai Corporation.

For Petitioner :: Mr.J.Chandran Sundar Sashikumar

For Respondents :: Mr.R.Sivakumar
Standing Counsel for R1
Mr.D.B.R.Prabhu
Standing Counsel for R2
Mr.R.Vigneswaran
Government Advocate for R3
Mr.Rajesh Murugan for R4

ORDER

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

The petitioner is residing in Annapillai Street, Sowcarpet. The case of the petitioner is that next to his property, a huge construction had been put up unauthorisedly by the fourth respondent without obtaining planning permission and approval for the existing building. It is the case of petitioner that the fourth respondent, who has obtained building plan permission for ground plus one floor for residential purpose, has put up construction of



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ground plus five floors for commercial purpose. Though the lock and seal and demolition notice was issued by the first respondent to the fourth respondent on 27.02.2015 followed by the de-occupation notice dated 01.08.2016, the petitioner states that a revision under Section 80-A of the Town and Country Planning Act was filed by the fourth respondent. Stating that the revision was also dismissed by the Government long back, no action was taken as against the fourth respondent by the official respondents. Therefore, the petitioner has filed the instant writ petition seeking for a direction to the first respondent to take necessary enforcement action against the fourth respondent.

2. The fourth respondent has not filed any counter affidavit. From the sequence of events, the de-occupation notice issued by the first respondent has become final. Subsequently, the first respondent has issued a notice dated 18.03.2024 requiring the fourth respondent to discontinue the usage of unauthorized building and to restore the land to its original position. From the said proceedings, it is seen that the fourth respondent had preferred a revision under Section 80-A of the Town and Country Planning Act and the



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same was rejected by the Government. Despite the fact that second de-occupation notice dated 18.03.2024 is again given to the fourth respondent to discontinue the occupation and to keep the entire building as vacant within seven days, the fourth respondent has not removed the unauthorized construction.

3. The learned counsel appearing for the fourth respondent now states that a statutory revision under Section 80-A has been filed by the fourth respondent challenging the notice dated 22.05.2024.

4. This Court is unable to find any merit in his submission. The official respondents have confirmed the unauthorized construction put up by the fourth respondent. Even though the lock and seal and demolition notice was issued in 2016, on account of pendency of the statutory revision, no action was taken by the official respondents. However, after the dismissal of the statutory revision, the respondents, who are supposed to proceed with the enforcement action, have not taken any steps even after the de-occupation notice dated 18.03.2024. There cannot be a second round of litigation when



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the order passed earlier in exercise of power under Sections 56 & 57 of the Town and Country Planning Act has become final. This Court finds no substance in the submission that a further revision is filed by the fourth respondent and that therefore no further action should be taken. Having regard to the admitted facts, the first respondent is directed to proceed with the enforcement action in terms of the notice dated 18.03.2024 issued already to the fourth respondent under Sections 56(2) & 57 of the Town and Country Planning Act and report compliance by the end of September, 2024. With the above direction, the writ petition stands allowed. No costs.

Index : yes/no
Neutral citation : yes/no
ss

(S.S.S.R.,J.) (N.S.,J.)
30.07.2024

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3. The Secretary to Government
Housing and Urban Development Department
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