



W.P.No.14832 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.14832 of 2021

and

W.M.P.No.15706 of 2021

and

W.P.No.14832 of 2021

B.R.Prabhalamba
W/o.Mr.Ramesh Babu

... Petitioner

Vs.

1. The Commissioner
Corporation of Chennai
Ripon Building
Raja Muthiah Road
Kannappar Thidal, Periyamet
Chennai-600 003.
2. The Assistant Engineer
Corporation of Chennai
Div 078, No.5, Anderson Road,
Ayanavaram, Chennai-600 023.
3. The Assistant Executive Engineer
Corporation of Chennai
Unit-17, No.5, Anderson Road
Ayanavaram, Chennai-600 023.

Page Nos.1/7



WEB COPY



W.P.No.14832 of 2021

4. The Executive Engineer
Corporation of Chennai
Zone 06
No.5, Anderson Road
Ayanavaram, Chennai-600 023.

... Respondents

Prayer :

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus forbearing the respondents 1 to 4 from in any way interfering with the peaceful occupation of the premises in Old No.5, New No.11, V.V.Koil Lane, Choolai, Chennai-600 112 pursuant to the de-occupation notice issued by 2 to 4th respondents in his proceedings vide No.06/00052/2020 dated 15.09.2020.

For Petitioner : Mr.N.Ragulagavel Rajesh
for Mr.D.Saikumaran
For Respondents : Mr.G.T.Subramanian
Standing Counsel

ORDER

[Order of the Court was made by **M.SUNDAR, J.,**]

Captioned 'Writ Petition' {hereinafter 'WP' for the sake of brevity} has been filed with a mandamus prayer seeking a mandamus qua respondents viz., mandamus forbearing respondents from in any way interfering with petitioner's peaceful occupation of 'Old No.5, New No.11, V.V.Koil Lane, Choolai, Chennai-600 112' {hereinafter 'said property' for the sake of brevity and convenience}.

Page Nos.2/7



W.P.No.14832 of 2021

WEB COPY

2. Mr.N.Ragulagavel Rajesh, learned counsel representing counsel on record for writ petitioner and Mr.G.T.Subramanian, learned counsel for all four respondents are before us.

3. A careful perusal of the case file in the light of submissions made by both sides brings to light that the writ petitioner was served with a lock and seal notice dated 02.03.2020 with a 30 days time frame and thereafter, action has been taken under Sections 56(2-A) and 57 of 'the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972)' {hereinafter 'said Act' for the sake of brevity} resulting in what is described as 'De-occupation notice' dated 15.09.2020 bearing letter No.06/00052/2020.

4. Learned counsel for writ petitioner submits that writ petitioner has made only alterations and has not put up any major construction.

5. Learned Standing Counsel for Chennai Corporation submits that no plan or approval has been obtained and there was no response to the lock



W.P.No.14832 of 2021

and seal notice when the writ petitioner was called upon to produce relevant material.

6. Learned counsel for writ petitioner also makes some allegations against one Ms.G.Jothi. Learned counsel submits that this G.Jothi has instigated the afore-referred de-occupation notice as she has filed a writ petition without claiming her share in the said property but we are not going into the same as de-occupation notice has not been challenged. Be that as it may, allegations cannot be made against an individual without making the individual a party to the proceedings. As already alluded to supra, the prayer itself is one for mandamus forbearing respondents from interfering with purported peaceful occupation of said property pursuant to de-occupation notice.

7. Therefore, we find no ground to accede to the mandamus prayer in the captioned WP.

8. However, we make it clear that it is open to the writ petitioner to file a appropriate writ petition arraying G.Jothi also as respondent and challenging the de-occupation notice, if so advised and if so desired. This



W.P.No.14832 of 2021

does not mean that we are condoning future laches on the part of writ petitioner as that will be the discretion of Hon'ble Court concerned, if the writ petitioner chooses to file a writ petition. In other words, the discretion as to whether the time spent in the captioned WP could be condoned and whether laches (if any) are to be condoned are all in the domain of Court concerned but we are only making it clear that this window is open to writ petitioner and if writ petitioner chooses to take this route, this order will neither impede nor serve as an impetus.

9. Ergo, the sequitur is, captioned WP fails and the same is dismissed. Consequently, captioned 'Writ Miscellaneous Petition' {'WMP'} thereat also perishes with the captioned WP which means captioned WMP is also dismissed. There shall be no order as to costs.

(M.S.,J.)

(K.R.S.,J.)

05.11.2024

Index : Yes / No

Neutral Citation : Yes / No

Speaking order / Non-speaking order

mk

To

Page Nos.5/7



WEB COPY



W.P.No.14832 of 2021

1. The Commissioner
Corporation of Chennai
Ripon Building
Raja Muthiah Road
Kannappar Thidal, Periyamet
Chennai-600 003.
2. The Assistant Engineer
Corporation of Chennai
Div 078, No.5, Anderson Road,
Ayanavaram, Chennai-600 023.
3. The Assistant Executive Engineer
Corporation of Chennai
Unit-17, No.5, Anderson Road
Ayanavaram, Chennai-600 023.
4. The Executive Engineer
Corporation of Chennai
Zone 06
No.5, Anderson Road
Ayanavaram, Chennai-600 023.



WEB COPY



W.P.No.14832 of 2021

M.SUNDAR, J.,
and
K.RAJASEKAR, J.,

mk

W.P.No.14832 of 2021

05.11.2024

Page Nos.7/7