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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.05.2024

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MRS.JUSTICE R.KALAIMATHI**

**W.P.Nos.13301 and 13303 of 2024
and
W.M.P.Nos.14449 and 14450 of 2024**

M.S.Abul Hasan

...

Petitioner
[in both W.Ps.]

versus

1.The Secretary to Government,
Housing and Urban Development Department,
Government of Tamil Nadu,
Fort St.George,
Chennai - 600 009.

2.The Executive Engineer,
Zone 05,
Greater Chennai Corporation,
No.61, Basin Bridge Road,
Chennai - 600 021.

3.The Assistant Executive Engineer, Unit 13,
Greater Chennai Corporation,
No.61, Basin Bridge Road,
Chennai - 600 021.

4.The Assistant Engineer,



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Division 60,
Greater Chennai Corporation,
No.61, Basin Bridge Road,
Chennai - 600 021.

...

Respondents
[in both W.Ps.]

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the first respondent to dispose of the Statutory Appeal filed by the petitioner before the first respondent dated 06.04.2024, pursuant to the De-Occupation Notice issued by the respondents 2, 3 and 4 dated 28.02.2024 under Letter No.05/00049/2024 under Section 56 sub Section 2[A] and 57 of the Tamil Nadu Town and Country Planning Act, 1971 as amended by Act 61 of 2008 in respect of Shop Nos.G-5 and G-6 at premises bearing Door Nos.28-26 (221 and 222), NSC Bose Road, Chennai - 600 001 respectively.

For Petitioner	:	Mr.Ashok Menon
[in both W.Ps.]		
For Respondent No.1	:	Mr.M.R.Gokulakrishnan
[in both W.Ps.]		Additional Government Pleader
For Respondent Nos.2 to 4	:	Mr.D.B.R.Prabhu
[in both W.Ps.]		Standing Counsel

COMMON ORDER

[Order of the Court was made by *A.D.JAGADISH CHANDIRA, J.*]

By consent, the main Writ Petitions itself are taken up for final disposal.

2. These Writ Petitions have been filed for the issuance of a writ of mandamus, to direct the first respondent to dispose of the Statutory Appeal filed by the petitioner dated 06.04.2024.



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3. It is the case of the petitioner that he is the absolute owner of Shop Nos.G-5 and G-6 (ground floor) of the premises bearing Door Nos.28-26 (221 and 222), NSC Bose Road, Chennai. The second and third floors of the said property were established without any sanction plan and hence, the petitioner had filed W.P.No.7845 of 2014 and this Court, by order dated 22.11.2016 directed the authorities to take necessary action holding that the second and third floors were unauthorized and thereby, the respondents 2 to 4 issued Lock and Seal notice dated 06.03.2017 under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971.

4. It is the further case of the petitioner that the notice dated 06.03.2017 specifically mentions about the minor deviations of the petitioner's premises and therefore, the petitioner filed Statutory Appeal before the first respondent on 30.03.2017. The first respondent, by order dated 29.04.2022, granted three months time for the petitioner for obtaining the planning permission to rectify the defects as per the Tamil Nadu Combined Development and Building Rules, 2019.



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5. While so, on 28.02.2024, De-Occupation notice was affixed the on the wall of the petitioner's shops. Hence, the petitioner had filed Statutory Appeal dated 06.02.2024 before the first respondent. Inspite of the appeal being filed by the petitioner, the respondents 2 to 4 once again issued a De-Occupation notice dated 28.02.2024. Aggrieved over the same, the petitioner has filed these Writ Petitions.

6. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the first respondent and the learned Standing Counsel for the respondents 2 to 4.

7. In view of the limited prayer sought for by the petitioner, without going into the merits of the case, the first respondent is directed to dispose of the Statutory Appeal filed by the petitioner dated 06.04.2024 and pass orders on merits and in accordance with law, within a period of twelve (12) weeks from the date of receipt of a copy of this order. Till such time, no coercive action will be ordered.

8. With the above direction, these Writ Petitions are disposed of.
No costs.



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[A.D.J.C.,J.] [R.K.M.,J.]

09.05.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

sri/vca

To

1.The Secretary to Government,
Housing and Urban Development Department,
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Fort St.George, Chennai - 600 009.

2.The Executive Engineer,
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A.D.JAGADISH CHANDIRA, J.

AND

R.KALAIMATHI, J.

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