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W.P.No.20619 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE C.V. KARTHIKEYAN

W.P.No.20619 of 2021
and WMP.Nos.21880 & 21881 of 2021

Hitesh C. Ranawat

... Petitioner

Vs

1. The Commissioner
Greater Chennai Corporation
Ribbon Building, Park Town
Chennai 600 003.
2. The Deputy Commissioner
Revenue & Finance
Greater Chennai Corporation
Ribbon Building, Park Town
Chennai 600 003.
3. The Zonal Officer
Zone V
Greater Chennai Corporation
No.62, Basin Bridge Road,
Old Washermenpet, Chennai 600 021.
4. The Junior Engineer
Ward – 56, Zone V
Greater Chennai Corporation



W.P.No.20619 of 2021

Community Hall, Annapillai Street,
Wall Tax Road, Chennai 600 001.

Respondents

....

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the entire records in connection with the impugned notice of the 2nd respondent in Letter Reference Na.Ka.No.L.E4/4886/2000 dated 13.08.2021 and quash the same and consequently forbear the respondents 1 to 4 from disturbing, interfering or evicting the petitioner from his peaceful possession of the premises bearing Door No.281, Jetkapuram, Walltax Road, Park Town, Chennai 600 003 comprised in Survey No.1272 part of Veperiy Village within the limits of respondent Corporation by invoking the provisions of the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975.

For Petitioner : Mr.M.Sriram

For Respondents : Mrs.P.T.Ramadevi
Standing Counsel

ORDER

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus to call for the entire records in connection with



W.P.No.20619 of 2021

the impugned notice of the 2nd respondent in Letter Reference Na.Ka.No.L.E4/4886/2000 dated 13.08.2021 and quash the same and consequently forbear the respondents 1 to 4 from disturbing, interfering or evicting the petitioner from his peaceful possession of the premises bearing Door No.281, Jetkapuram, Walltax Road, Park Town, Chennai 600 003 comprised in Survey No.1272 part of Vepery Village within the limits of respondent Corporation by invoking the provisions of the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975.

2. In the affidavit filed in support of the writ petition, the petitioner had stated that he is the owner of the super structure at D.No.281 Jetkapuram, Walltax Road, Park Town, Chennai 600 003 measuring an extent of 1345 sq.ft. It is stated that originally Mahadeva Pillai and Elumalai Pillai were granted lease hold rights by the then Corporation of Madras in the year 1941 to enjoy the vacant land. Thereafter, they had transferred the property in favour of Panchali Ammal by a sale deed dated 28.09.1949 . The said Panchali Ammal had raised a superstructure. The building was assessed to tax with Corporation of Chennai. After the



W.P.No.20619 of 2021

WEB COPY

death of Panchali Ammal, on 26.02.1989 her legal representatives had transferred the superstructure in favour of the petitioner when he was a minor and it had been purchased by a registered sale deed dated 26.10.1998.

3. It is contended that the petitioner had demolished the existing structure and put up a new building. He had also let out a portion for tenancy. It had been stated he is therefore enjoying the superstructure by collecting rents and by being in possession thereof. It had been stated that he had sent a representation on 18.01.2021 offering to pay the outstanding lease amount payable for the period from 1989 to 2018 and seeking to regularise the construction and to induct him as a tenant under the Corporation. However, the impugned notice dated 13.08.2021 was issued claiming that the petitioner is an unauthorised occupant and that he has no right to continue to be in the possession of the building or to occupy the building. A demand was also raised that he should pay damages of Rs.59,66,773/- for use of occupation of the land from the period 01.04.1989 till 31.03.2021. The notice was issued taking



W.P.No.20619 of 2021

WEB COPY

advantage of the Section 5 (2) of the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975. It had been stated that the damages fee for use and occupation for commercial space had also been enhanced at 14% with respect to the guideline value and that a sum of Rs.8040/- per sq.ft had been determined. The writ petition had been filed questioning that particular notice.

4. The learned counsel for the petitioner pointed out a representation given by the petitioner on 03.09.2021 and stated that the said representation may be considered by the respondents. In the said representation it had been stated that minimum charges could be changed and that a show cause notice had not been earlier issued to him.

5. A counter affidavit had been filed on behalf of the respondents wherein it had been contended that the petitioner had unlawfully purchased the property belonging to the Corporation and by such purchase had not acquired any right or title or interest over the property. Even his vendor did not have any right or title or interest over the



W.P.No.20619 of 2021

WEB COPY

property. However, the vendor had sold the property to the petitioner. The only right that should be available to the petitioner if at all the period of limitation is available with him is to seek indemnify of loss suffered for conveying the property without any title by his vendor. At any rate the petitioner cannot deny or dispute that he had been in unauthorised occupation of the property belonging to the respondents. There has not been any lawful tenancy agreement entered into between the petitioner and the respondents. The petitioner in fact seeks that he may be inducted as tenant under the respondents. But the respondents had categorised him as being in unlawful occupation from the year 1998 onwards when he had purchased and from the year 1989 when the superstructure had been transferred to the petitioner when Panchali Ammal died.

6. With respect to issuance of notice, in the counter affidavit it had been stated that the petitioner had been in occupation from 01.04.1989 without remitting any rental or damage charges for use of occupation and that a letter was initially issued on 05.11.2001 calling upon the petitioner to pay the required damages. A further letter was sent on 10.11.2004 and



W.P.No.20619 of 2021

yet another letter was issued on 25.02.2009. It had been stated that in all the communications the amount of damages for use and occupation had been quantified and mentioned but the petitioner had not even bothered to even reply to the said communications less acknowledge that he was in unauthorised occupation and coming forward to pay the lease amount.

7. It had been further stated that a show cause notice was issued under Section 4(1) of the said Act on 26.02.2009. A further letter was issued on 14.07.2015. It had been stated that yet another letter was also issued on 25.05.2018 seeking to evict the petitioner from the premises. An order of eviction was issued on 06.06.2019 under Section 5(1) of the Act. An Appeal under Section 9 (6) of the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975 was also processed and letter dated 25.05.2018 was sent to the petitioner, but it was returned with an endorsement no such name. Thereafter a council resolution had been passed to revise the damage charges.

8. It is contended that for the period from 01.04.1989 when the



W.P.No.20619 of 2021

petitioner had commenced to be in unlawful occupation till 31.03.2021 the petitioner is due and liable to pay a sum of Rs.59,66,773/-. It had been stated that the notice dated 13.08.2021 under Section 5(2) of the Act had also been issued and the respondents had sealed the premises. Thereafter, the petitioner had filed the present writ petition. A learned single Judge of this Court had directed that the petitioner should pay a sum of Rs.6/- lakhs and that the premises should be de-sealed. The petitioner had paid the sum of Rs.6 lakhs which is just 10% of the demand. The demand as on 2021 had touched nearly Rs.60,00,000/-. Now as on 2024 it could have also enhanced to much larger extent. Even after payment of the said amount of Rs.6/- lakhs, the petitioner had not voluntarily come forward to pay any amount towards the Corporation. There has been no bonafide exhibited by the petitioner herein.

9. It is clear that the petitioner is in unlawful occupation without payment of any amount towards damages for unlawful occupation. He cannot be considered as a tenant. He is not a tenant. He is in authorised occupation. The only remedy available is to vacate and hand over the



W.P.No.20619 of 2021

vacant possession.

WEB COPY

10. The respondents are at liberty to proceed further in the manner known to law and seal the premises for non payment of any amount for damages for the used period. At the most they can only adjust the amount Rs.6/- lakhs which had been paid under direction of this Court and not voluntarily by the petitioner. Respondents also have every right to proceed to recover the amounts due and payable by the petitioner in the manner known to law.

11. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are also closed.

13.12.2024

dpq
Index: Yes/No
Speaking order / Non speaking order

9/11



WEB COPY



W.P.No.20619 of 2021

C.V.KARTHIKEYAN, J.

dpq

To

1. The Commissioner
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2. The Deputy Commissioner
Revenue & Finance
Greater Chennai Corporation
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10/11



W.P.No.20619 of 2021

WEB COPY

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