



WP.No. 25709 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2024

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

WP.No. 25709 of 2021
and WMP.No.27149 of 2021

M.Ehambaram

...petitioner

Vs.

1. The Commissioner,
Greater Chennai Corporation,
Chennai.
2. The Assistant Engineer (DIV 003)
Corporation of Chennai,
Annai Sivagami Nagar, 11st Street,
Behind Corporation Primary School, Ennore,
Chennai 57.
3. The Assistant Executive Engineer (Unit 01),
Corporation of Chennai,
Annai Sivagami Nagar, 11st Street,
Behind Corporation Primary School, Ennore,
Chennai 57.
4. Tamilarasan

..respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 2nd and 3rd respondent in Notice No.01/02526/2021, dated 25.09.2021 quash the same and consequently directing the 1st to 3rd respondents not to take any steps against my property situated in No.18/53, 5th Street, Annai Sivagami Nagar (Bhurma Nagar) Ennore.

For petitioner	: Mr.M.Dinesh
For respondents	
for RR1 to 3	: Mr.D.B.R.Prabhu
for R4	: No Appearance

ORDER

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

This petition has been filed to quash the impugned order passed by the respondents 2 and 3 in Notice No.01/02526/2021, dated 25.09.2021 and consequently direct the respondents 1 to 3 not to take any step against petitioner's property situated in No.18/53, 5th Street, Annai Sivagami Nagar (Bhurma Nagar) Ennore.

2. Despite the matter is pending for more than two years, both sides got several adjournments for one or other reason.



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3. This Court earlier pointed out to the learned counsel for the petitioner that the petitioner has not stated anywhere in his representation dated 22.11.2021 about the planning permission, if any obtained by him for putting up construction. Since a huge building is being constructed by the petitioner without obtaining any planning permission and there is no proposal from the petitioner as to the feasibility or pendency of any regularisation application, this Court is unable to interfere with the impugned order, which is in accordance with law as stated in the order.

4. The learned counsel for the petitioner instead of producing planning permission has stated that the petitioner is not the only one who raised such a building and there are several others who had put up construction as that of the petitioner, but the third respondent has initiated action only against him. With regard to title, except stating that the property belongs to his grand father and he constructed the building, the learned counsel for the petitioner has not produced any document to show how the property validly conveyed to the petitioner's grand father. Since title is not disputed by the respondents, this Court is not inclined to go into the issue. The photograph produced before this Court shows that the construction is in process at the time of filing this writ petition.



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5. It is seen that the petitioner has not filed any approved plan nor any application for grant of building plan approval. The petitioner who is supposed to put up the construction only after getting planning permission sends a notice in reply that no document or patta is available to anyone in the locality. Even assuming that the petitioner's possession has been regularised by the Government, the building plan approval is required in terms of the provisions of the Tamil Nadu Town and Country Planning Act and Tamil Nadu Urban Local Bodies Act. Therefore, this Court is of the view that the construction put up by the petitioner is unauthorised, which cannot be legalised or regularised. Therefore, this Court is not inclined to entertain the Writ Petition. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. However, in case the petitioner seeks regularisation as per law, the same shall be considered before demolition pursuant to the impugned order.

(S.S.S.R.J.,) (N.S.J.,)
12.02.2024

Index : Yes / No
Speaking order: Yes/No
pvs



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