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W.P.No.22108 of 2025



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2025

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.P.No.22108 of 2025 and
WMP No.24872 of 2025

R.A.Arun Kumar, s/o T.R.K.Arivalagan

...Petitioner

Vs.

1. The Assistant Engineer,
Greater Chennai Corporation, DIV 183,
Zonal Office, Rippon Building, Chennai.

2. The Assistant Executive Engineer,
Greater Chennai Corporation, Unit 41,
Zonal Office, Rippon building, Chennai.

3. The Executive Engineer,
Greater Chennai Corporation, Zone 14,
Zonal Office, Rippon building, Chennai.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the file of the respondents in impugned orders Nos.14, 00122/2025 dated 16.05.2025 pertaining to the petitioner property at S1, S2, S3, F1, F2, F3 in Plot No.E12, door No.3/575A, survey No.45/2A3B, 1st main road, Govinda Nagar, Palavakkam, Chennai 600 041 and quash the same.

For Petitioner : Mr.K.V.Sajeev Kumar



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For Respondents : Mr.D.B.R.Prabhu,
Standing Counsel

J U D G M E N T

(Judgment of the Court was delivered by J.NISHA BANU, J.)

This writ petition has been filed to quash the impugned de-occupation notice issued by the respondents dated 16.05.2025, pertaining to the petitioner's property at S1, S2, S3, F1, F2, F3 in Plot No.E12, door No.3/575A, survey No.45/2A3B, 1st main road, Govinda Nagar, Palavakkam, Chennai 600 041.

2.1. It is averred in the writ petition that originally the petitioner's father had purchased the above said property on 11.12.2000. After obtaining planning approval from the authorities concerned, he demolished the old structure and carried on the construction, as per the sanctioned plan. On 11.05.2022, while carrying the construction work, the respondents issued a stop work notice, however, upon producing the approved plan, the respondents allowed to continue the construction work.

2.2 After completion of building, the property was assessed for tax and the same was paid without any default. Subsequently, the petitioner's father executed

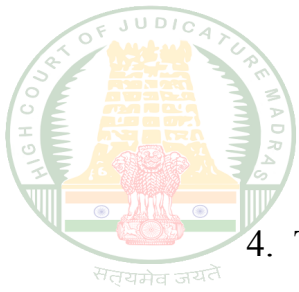


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a settlement deed in favour of the petitioner on 01.09.2023 and the revenue records were also duly mutated in the name of petitioner. In such circumstances, the respondents issued a notice, citing a lock and seal order dated 23.06.2022 and threatened that they will take enforcement action under Sections 56(2A) and 57 of the Tamil Nadu Country Planning Act.

2.3. According to the petitioner, the building has been constructed in accordance with the approved plan and if any deviations, it may only be minor deviations. Hence, the impugned notice is arbitrary, belated, without jurisdiction and the same is liable to be quashed.

3. The learned counsel for the petitioner submitted that the respondents issued a stop work notice on 11.05.2022 stating that no approved plan has been exhibited at the site during inspection, however, on producing the approved plan, they allowed to continue the construction work. In such circumstances, the impugned de-occupation notices dated 16.05.2025 have been issued under Sections 56(2) and 57 r/w Section 85 of Town and Country Planning Act, signed by the respondents, namely Assistant Engineer Div.183, Assistant Executive Engineer Unit 41 and Executive Engineer Zone 14.

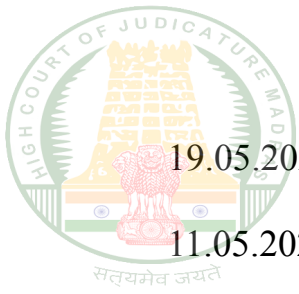


4. The learned counsel for the petitioner further contended that, as per G.O.(M)No.7, Housing and Urban Development (UD4(1) Department, dated 10.01.2023, the above said officials have no authority to issue such impugned notices. Hence, he seeks to quash the said notices, as they are arbitrary and have been issued without any jurisdiction. The learned counsel also relied upon a decision of the Division Bench of this Court in W.P.No.11925 of 2024, dated 12.12.2024.

5. Mr.D.B.R.Prabhu, learned Standing Counsel takes notice for the respondents.

6. Heard the learned counsel for the petitioner and the learned Standing counsel appearing for the respondents and we have perused the materials available on record.

7. A perusal of records would go to show that the petitioner's father was granted building and planning permission on 24.01.2022. After completion of the construction of building, the property was assessed for property tax on



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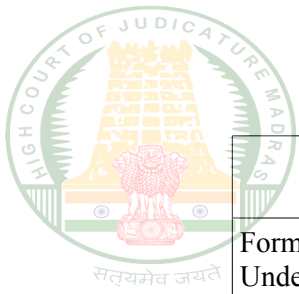
19.05.2023. In the meanwhile, though stop work notice was issued as early as on

11.05.2022, on production of Planning Permission Approval for the building, the

respondents did not take any further action. The contention of the petitioner is that, since they produced the planning permission, the respondents allowed to continue the construction work. It is also contended that the building is constructed within the parameters of the approved plan dated 24.01.2022 and even if there is any minor deviation, the same can be brought in accordance to the approved plan.

8. In the judgment relied on by the learned counsel for the petitioner in W.P.No.11925 of 2024, dated 12.12.2024, a Division Bench of this Court has observed as follows.

" 3. Mr.Ashwin Kumar, learned counsel appearing for the petitioner would point out that in the case on hand both Form II and Form IV have been issued by one and the same person and he has signed for Member Secretary in both the Forms. This, according to him, is not in conformity with the guidelines and a counter has been filed by the Member Secretary of the Chennai Metropolitan Development Authority, wherein, it is stated that as per the circular dated 12.03.2023, issued in furtherance to the G.O.(Ms.)No.7 dated 10.01.2023 referred to supra, they have designated certain Approving Authorities and Issuing Authorities and the said circular and the designation made as per the said circular are as follows:-



Form	Nature of the Notice	Approving Authority	Issuing Authority
Form – I Under Rule – 3	Notice for Production of Documents	Deputy Planner	Assistant Planner
Form – II Under Rule 4(1)	Notice of Inspection Issuing Authority is Assistant Planner after obtaining orders from the.	Senior Planner/ Chief Planner	Assistant Planner
Form – III Under Rule 5(a)	Notice for the Removal of unauthorised development (without Planning Permission)	Member Secretary	Assistant Planner
Form – IV Under Rule – 5(b)	Notice for compliance of Planning Permission (development carried out in contravention Planning Permission)	Member Secretary	Assistant Planner
Form – V Under Rule – 6(1)	Notice to Discontinue (ongoing unauthorised development)	Member Secretary	Assistant Planner
Form – VI Under Rule – 6(2)	Notice for demolition issued Subsequent to Form – V	Member Secretary	Assistant Planner
Form – VII Under Rule – 7	Notice for Lock and Seal	Member Secretary	Assistant Planner

4. Therefore, according to the 2nd respondent the Forms are signed by the Issuing Authority after approval by the Approving Authority. Hence, they are in order.

5. We are unable to accept the said explanation. The guidelines did not contemplate the Issuing Authority and the Approving authority. The Government Order mandates that certain notices in certain forms should be issued by certain officers and notice in certain forms should be issued by officers who are higher in rank. A perusal of the tabular column shows that all notices are issued by one and the same person, which is in violation of the guidelines issued by the Government.

6. Even the Forms filed in the case on hand both Forms II and IV are signed by one and the same person for and on behalf of the Member



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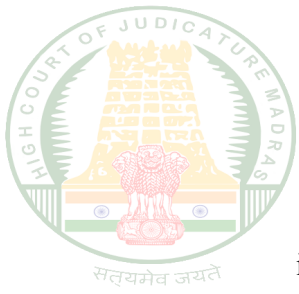
Secretary. That by itself is not in conformity with the Government Order. Hence, Form IV notice dated 08.04.2024 having been issued by an officer who is not authorized to issue the same, is set aside. From II notice is retained. The Chennai Metropolitan Development Authority will proceed afresh from the stage of Form II notice, issue proper Form IV notice by the officer who is authorized under Clause 4 of the G.O. dated 10.01.2023 and pass orders afresh."

9. The learned counsel for the petitioner vehemently argued that as per G.O.Ms.No.07, Housing and Urban Development [UD4(1)] Department dated 10.01.2023, the respondents have no authority to give de-occupation notice under Section 56 and 57 of the Town and Country Planning Act. Further, It is relevant to note that the Government had issued orders vide G.O.(Ms) No.7, dated 10.01.2023 to streamline the enforcement action on unauthorized development under Sections 56, 57 and 80(A) of the Tamil Nadu Town and Country Planning Act, 1971. The relevant portion is extracted hereunder.

2. Who can call for records to inspect the buildings

The authorized officer for issuing notices for production of documents in Form-I and for carrying out inspection in Form II under Rule-3 should not be lower than Planning Assistant/Supervisor/Architectural Assistant in case of Chennai Metropolitan Development Authority, Urban Development Authority and Directorate of Town and Country Planning or Junior Engineer in case of Corporation/Municipalities/Town Panchayats and Panchayat Union.

3. ...



4. Who can make inspection and issue lock and seal order

a. The notices in Form-III or IV, Form-V and Form-VI shall be issued by an officer of higher level to those indicated in para 2 above.

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The Lock and seal order in Form-VII should be issued by the Head or Chief Executive Officer of the Authority/Local body.

The Government order mandates that notices in Form-III or IV, Form-V and Form-VI shall be issued by an officer of higher level. Here, in the year 2022, stop work notice was issued, having signed by the Assistant Engineer, Assistant Executive Engineer and Executive Engineer. Now, the present impugned de-occupation notices were also issued by the same officials/ respondents and not by the Head or Chief Executive Officer of the Authority/Local body as contemplated in the said Government order. Therefore, it is apparent that the impugned Deoccupation Notices dated 16.05.2025 asking the petitioner to deoccupy the premises, failing which, the building will be sealed, is without following the procedure and in violation of the guidelines issued by the Government and on that ground, this court is inclined to allow the writ petition.

10. Accordingly, this writ petition is allowed. The impugned notices dated 16.05.2025 are set aside. The Greater Chennai Corporation is directed to issue proper Form and notice by the officer who is authorized as contemplated in the G.O. (Ms).No.7 Housing and Urban Development [UD4(1)] Department dated



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10.01.2023 and shall proceed afresh. There shall be no order as to costs.

Consequently, connected miscellaneous petition is closed.

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(J.N.B.J.)

(M.J.R.J)

MST/nvsri

14.07.2025

Index: Yes/No

Internet: Yes

Neutral Citation: Yes/No

To

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**J.NISHA BANU, J.
AND
M.JOTHIRAMAN, J.**

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