



WP No.32676 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2025

CORAM

THE HON'BLE MR.MANINDRA MOHAN SHRIVASTAVA,
CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE G.ARUL MURUGAN

WP No.32676 of 2025

1.M.Sukumar
2.A.Krishnarajan
3.S.Meyyappan
4.R.Kumar
5.Lakshmi Narayanan Thiyagarajan
6.R.Sivakumar
7.M.Vanitha

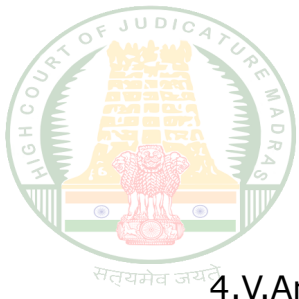
: Petitioners

versus

1.The Commissioner,
Greater Chennai Corporation,
Rippon Buildings,
Chennai 600 003

2.The Executive Engineer,
Zone 7 (Ambattur),
Greater Chennai Corporation,
Ambattur, Chennai 600 053

3.The Assistant Engineer,
Division 84, Unit 19, Zone 7
Greater Chennai Corporation,
Korattur, Chennai 600 080



WP No.32676 of 2025

4.V.Arun Kumar
5.Vijayalakshmi

: Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration declaring the lock and seal of the premises bearing door No.12/1, Chavadi Street, Korattur Chennai 600 080 by respondents 1 to 3 effected on 19.8.2025 as unconstitutional illegal, unlawful and void and direct respondents 1 to 3 to remove the lock and seal of the premises in Door No.12/1, Chavadi street, Korattur, Chennai 600 080 forthwith.

For Petitioners : Mr.S.Sadasharam,
for Mr.S.Nagarajan

For Respondents : Mr.A.Arun Babu,
Standing Counsel,
for respondents 1 to 3

ORDER

(Order of the Court was made
by the Hon'ble Chief Justice)

The challenge to locking and sealing of the premises, which is claimed to be occupied by the petitioners, is based mainly on the submission that without there being any notice issued to the occupiers in terms of the mandate of proviso to sub-Section (2) of Section 56 of the Tamil Nadu Town and Country Planning Act, 1971 (for short 'the Act'), the premises have been locked and sealed.



WP No.32676 of 2025

WEB COPY

2. On the last date of hearing, we required the counsel appearing for the Corporation to seek instructions as to whether notices have been issued to the petitioners also, as the petitioners claim to be the occupiers of the building as tenants, in respect of which, notices have been issued to the owner.

3. Though no reply on affidavit has been filed, however, learned counsel for the respondent Corporation, upon instructions, would submit that while the official respondents are not disputing the petitioners' status as tenants/occupiers, notices have been affixed on the doors of the houses which are occupied by the petitioners. Therefore, even if the notices are, strictly speaking, not issued to the names of the petitioners, affixation of notice on the door of the houses occupied by the petitioners, is substantial compliance of the legal requirement of law.

4. Mr.T.Rajaram, Assistant Engineer, Division 84, Zone 7, Greater Chennai Corporation is also present in the Court.



WEB COPY

5. After hearing the learned counsel for the parties, we are of the view that the action of the respondent authorities in locking and sealing the premises is in apparent violation of the provision contained in proviso to sub-Section (2) of Section 56 of the Act.

The relevant provision, for ready reference is extracted below:

"56. Power to require removal of unauthorised development-

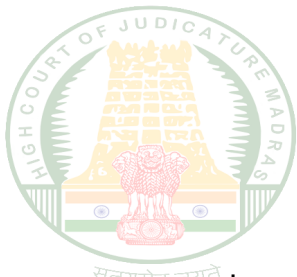
(2) In particular, any such notice may, for the purposes aforesaid, require-

(i) the demolition or alteration of any building or works;

(ii) the carrying out on land, of any building or other operations;

(iii) the discontinuance of any use of land or building: Provided that, in case the notice requires the discontinuance of any use of land or building, the appropriate planning authority shall serve a notice on the occupier also."

6. A reading of the above said provision mandates that in case the notice requires discontinuance of any use of land or building, the appropriate planning authority shall serve a notice on the occupier



WP No.32676 of 2025

also.
WEB COPY

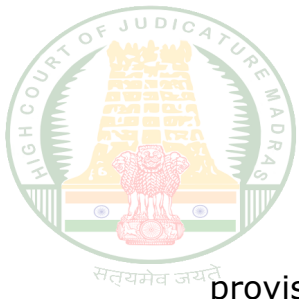
7. The expression "occupier" has been defined in Section 2 clause 28 of the Act, as below:

"(28) "occupier" includes- (a) any person for the time being paying or liable to pay to the owner the rent or any portion of the rent of the land or building or part of the same in respect of which the word is used or damages on account of the occupation of such land, or building or part; and (b) a rent-free occupant"

8. It is relevant to mention here that the expression 'owner' has also been separately defined under Section 2(29) of the Act. It reads as under:

"(29) "owner" includes the person for the time being receiving or entitled to receive, whether on his own account or as agent, trustee, guardian, manager or receiver for another person, or for any religious or charitable purposes, the rent or profits of the property in connection with which the word is used"

9. It clearly shows that for the purpose of application of the



WP No.32676 of 2025

WEB COPY

provision contained in Section 56(2)(iii) proviso, the expressions 'occupier' and 'owner' are not to be understood in the same sense. There may be cases where a particular building may be occupied by its owner. In that case, the owner will be required to be issued notice in compliance of the provisions contained in proviso to sub-Section (2) of Section 56 of the Act. There may be other cases where the owner may have let out or leased out the premises. In that case, any person who is an "occupier" within the meaning of that expression, as defined under Section 2(28) of the Act, would the person to whom notices are required to be issued.

10. The intent of the law is clear that where the authority requires discontinuance of any use of land or building, the person who actually occupies, is required to be given notice. This provision is intended to ensure that a person who otherwise is using the premises and occupying it either for residential or non-residential purpose or for any other purposes may not be subjected to lock and seal proceedings unless he is given sufficient notice so that he may remove his belongings, and if other persons are living, to make their own arrangement. The provision therefore seeks to avoid such a mischief.



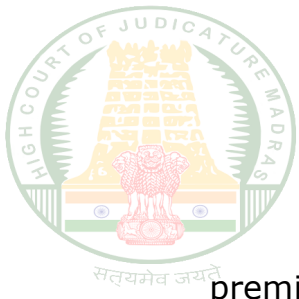
WP No.32676 of 2025

WEB COPY

11. In that view of the mater, we are of the considered opinion that the requirement of giving notice to the occupier is not an empty formality but a mandatory requirement of law.

12. The submission of the learned counsel for the Corporation that affixation of notice issued in the name of the owner would amount to substantial compliance of the provision, is liable to be rejected at the threshold. The notice in the name of the owner does not amount to notice in the name of the occupier. As the provision of law discussed herein above and the statutory scheme of the Act clearly carves out two different classes of persons: one as the owner; and the other as the occupier, it cannot be said that notice to owner includes notice to occupier. On facts, present is not a case where owner alone is occupying. On the contrary, admitted position is that building is in occupation of the tenants, the petitioners.

13. For the reasons stated above, we are of the view that the action of the respondent authorities in putting lock and seal in the



WP No.32676 of 2025

WEB COPY

premises without giving any notice to the petitioners who are the tenants of the premises and also in occupation, is apparently illegal and in excess of power conferred under the law.

14. As a consequence, the impugned action of respondents 1 to 3 is declared illegal. Respondents 1 to 3 shall forthwith remove the lock and seal.

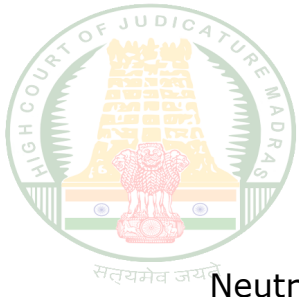
15. We make it clear that respondent 1 to 3 shall be at liberty to take appropriate action by complying with the legal requirements.

16. The writ petition is allowed. There will be no order as to costs. Consequently, WMP No.36587 of 2025 is closed.

17. WMP No.36586 of 2025 filed to permit the petitioners to file a single writ petition is allowed and disposed of.

(MANINDRA MOHAN SHRIVASTAVA, C.J.) (G.ARUL MURUGAN, J.)
02.09.2025

Index : Yes/No



WP No.32676 of 2025

Neutral Citation : Yes/No
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WEB COPY



WP No.32676 of 2025

WEB COPY

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WEB COPY



WP No.32676 of 2025

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WP No.32676 of 2025

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