

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

W.A.No.1279 of 2015
and
M.P.Nos.1 and 2 of 2015

Chennai Bhattai 1st Street
Resident's Welfare Association,
represented by its Secretary,
Mr.K.Ganesan,
S/o.Kuppuswamy,
No.31/68, Chennai Bhattai 1st Street,
Villivakkam,
Chennai-600 049. ... Appellant/Petitioner

Vs.

- 1.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai-600 003.
- 2.The Junior Engineer,
Corporation of Chennai,
Zone 21, Ward 95,
Villivakkam, Chennai-600 049.
- 3.The Commissioner of Police,
Egmore, Chennai.
- 4.The Inspector of Police (Law & Order),
K-7, ICF Police Station,
Ayanavaram, Chennai. ... Respondents/Respondents

This writ appeal is preferred under Clause 15 of Letters Patent against the order dated 24.08.2015 passed in W.P.No.16048 of 2015.

Writ petition filed under Article 226 of the constitution of India praying for a writ of mandamus directing the respondents to consider and pass orders on the representation dated 20.02.2015 as per law within a reasonable time.

For Appellant : Mr.B.Divakaran

For Respondents : Mr.V.C.Selvasekaran for RR1 and 2
Mr.N.Sakthivel, GA for RR3 and 4

JUDGMENT

(The Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

The writ petitioner, stated to be a residents welfare association of the residents of Chennai Bhattai 1st street, had filed the writ petition, seeking a direction to the respondents to consider and pass orders on the representation dated 20th February, 2015.

2 The brief facts as derived from the pleadings and the impugned order are that the petitioner association has erected an Arch on the public road. The petitioner association was served a notice on 9th February, 2015 under Section 222 of the Chennai City Municipal Act to remove the said encroachment. In default, the police authorities were informed to extend their assistance for removal of the said arch, which was an encroachment on the public road. The petitioner made a representation to the second respondent to permit the petitioner association to erect the said arch on the road, which according to the petitioner shall not cause any nuisance or obstruction to the traffic. Thus, the writ petition for a direction to decide the said representation.

3 The learned Single Judge, considering all facts of the case, recorded the finding that the said Arch was erected without permission on the public road, causing hindrance and disturbance and has, accordingly, granted the petitioner time to remove the arch on or before 31st August, 2015.

4 Challenging the correctness of the said order of the learned Single Judge, the petitioner filed the instant appeal, reiterating the same submissions and also that the petitioner / appellant be granted permission to erect the said arch by validating the erection already made on the public road. In that context, a direction was sought for consideration of the representation for approval, which was made after a notice under Section 222 of the Chennai City Municipal Act was served on the petitioner association on 9th February, 2015.

5 It is a case where an unauthorised arch has been erected on the public road without approval or permission of the competent authorities. The subsequent representation for approval cannot validate the illegal construction of the said arch and as such, the writ petition was rightly disposed of. At this stage, the learned counsel appearing for the appellant seeks for some more time to remove the said arch. Accordingly, we grant one week time to remove the arch on or before 7th September, 2015, in default, the authorities are well within their rights to remove the same with the aid of the police and recover the expenses incurred therein from the petitioner association.

6 Resultantly, the writ appeal stands dismissed. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

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To

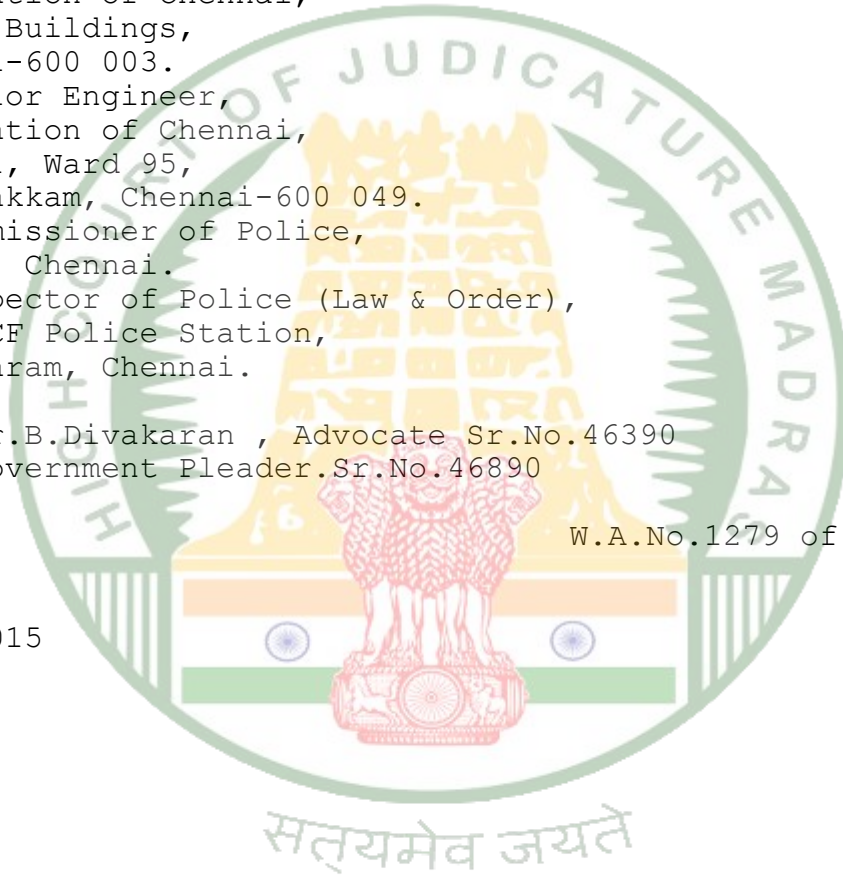
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1 cc to Mr.B.Divakaran , Advocate Sr.No.46390

1 cc to Government Pleader.Sr.No.46890

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