

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. No.10617 of 2014 and M.P. No.1 of 2014

Dr. R. Selvakumar

Petitioner

Vs.

- 1 State of Tamil Nadu
represented by its Director
Town and Country Planning
807 Anna Salai
Chennai 600 002
- 2 Salem City Municipal Corporation
represented by its Commissioner
Salem
- 3 The Member Secretary
Local Planning Authority
Salem City Municipal Corporation
Salem
- 4 P.K. Venkateswaran @ Murali
- 5 Girija

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 2 and 3 to demolish the illegal and unauthorised constructions put up by respondents 4 and 5 at Door No.25/9, Lakshmi Saraswathi Apartments, Subramaniapuram (Cluny School West), Salem, comprised in T.S. No.76,77 and 78.

For petitioner	Mr. P. Tamilavel
For R1	Mr.P.S. Sivashanmugasundaram Special Government Pleader
For R2	Mrs. K. Bhuvaneswari
For R3	Mr. P.H. Arvinth Pandian Additional Advocate General Asst by Mr. A. Kumar
For RR 4 & 5	Mr. S. Ravi

ORDER

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

With the consent of the learned counsel for the parties, the writ petition is taken up for final disposal.

2 This writ petition is filed seeking a writ of mandamus directing the respondents 2 and 3 to demolish the illegal and unauthorised constructions put up by respondents 4 and 5 at Door No.25/9, Lakshmi Saraswathi Apartments, Subramaniapuram (Cluny School West), Salem, comprised in T.S. No.76,77 and 78.

3 The petitioner is stated to be a resident of Lakshmi Saraswathi Apartments. According to him, respondents 4 and 5 have made illegal and unauthorised construction. Noticing the said illegal and unauthorised construction, he made a representation to respondents 1 to 3. The authorities have failed to take any action on the said representation and as such, the petitioner seeks a direction to respondents 2 and 3 to demolish the illegal and unauthorised construction put up by respondents 4 and 5.

4 It transpires that the authorities have initiated an attempt by issuing notice on 19th January 2009 in Form 1B under Sections 56 and 85 of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act"). However, the same could not be taken to its logical conclusion on account of some indulgence purportedly granted in the judicial forum.

5 It is stated by the learned counsel for respondents 4 and 5 that the respondents 4 and 5 have made an application under Section 49 of the Act. Having failed to obtain approval, an attempt was made by filing an appeal under Section 79 of the Act and the said appeal is pending consideration.

6 The third respondent submits that a notice under Sections 56 and 85 of the Act in Form 1B has again been issued to the respondents 4 and 5 on 08.07.2015 and consequential further action shall be taken on merits and in accordance with law, at the earliest.

7 Without going into the merits of the case, as the pendency of appeal under Section 79 of the Act may come in the way of taking consequential action, in the absence of any interim order pursuant to the notice issued under Sections 56 and 57 of the Act, we direct the respondents 2 and 3 to take consequential action, pursuant to the aforesaid notice dated 08.07.2015, as per law within the statutory time frame. Such exercise shall be completed within a period of three weeks from today.

8 The writ petition stands disposed of accordingly.
Costs made easy. Connected, Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

- 1 The Director of Town and Country Planning
807 Anna Salai
Chennai 600 002
 - 2 The Commissioner
Salem City Municipal Corporation
Salem
 - 3 The Member Secretary
Local Planning Authority
Salem City Municipal Corporation
Salem
- +1 cc to Mr.A.Kumar Advocate vide sr.37305
+1 cc to M/S.Gupta & Ravi vide sr.37306
+1 cc to Government Pleader vide sr.37163
+1 cc to Mr.P.Tamilavel Advocate vide sr.37087
+1 cc to Ms.K.Bhuvaneshwari vide sr.37039

सत्यमेव जयते

W.P. No.10617 of 2014

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