

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 03-03-2015

CORAM:

THE HONOURABLE MR. JUSTICE SATISH K. AGNIHOTRI
AND
THE HONOURABLE MR. JUSTICE M. VENUGOPAL

W.P. No. 1244 of 2015 and M.P. Nos. 1 & 2 of 2015

S.A. Rahman

... Petitioner

Vs.

1. The Commissioner
Corporation of Chennai, Rippon Buildings,
Chennai 600 003
2. The Member Secretary
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Buildings,
No.1 Gandhi Irvin Road, Egmore,
Chennai 600 008
3. Dhanasekaran
4. Kanniappan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus directing the 1st respondent-Commissioner, Corporation of Chennai to take action for demolishing the illegal construction put up over Plot No.136 by the owners of the building-respondents 3 and 4 to prosecute them for the said illegal construction and to restore it to the original position of mandatory side set back of 5 Feet on the southern side of the petitioner's property Old No.10/135, New No.10/17, 93rd Street, TNHB, Phase-I SIDCO Nagar, Villivakkam, Chennai-600 049 so as to enable the petitioner to enjoy the easement rights-free air and light which he was enjoying for the past more than 20 years through the windows on the northern side of his wall from the southern side

where the respondents 3 and 4 have put up construction in violation of the sanctioned plan as the 2nd respondent Chennai Metropolitan Development Authority (CMDA) has already delegated the powers to the 1st respondent-Commissioner of Corporation for taking enforcement action.

For petitioner : Mr. S. Ratnasabapathy

For respondents : Mr.A. Nagarajan - R1
Mr. N. Sampath - R2
No Appearance - R3 & R4

ORDER

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

The grievance of the petitioner in this writ petition is that the respondents 3 and 4 have made violations in respect of their property situated over Plot No.10/136 E Type at Villivakkam, Phase-I, Chennai.49.

2. It appears that the first respondent-Corporation, after inspection on 05.2.2015, has issued a notice dated 10.2.2015 under Sections 56 and 57 read with Section 85 of the Tamilnadu Town and Country Planning Act 1971 (for short 'The Act'), requiring the 4th respondent, who happens to be the father of the third respondent, to stop the work/ remove unauthorised portion/ deviated construction immediately and confirm in writing the fact of having done so, within 3 days from the date of receipt of the notice. It appears that no action was taken by the respondents 3 and 4 pursuant to the said notice dated 10.2.2015. Thereafter, on 26.2.2015, locking, sealing and demolition notice under Sections 56 and 57 of the Act was issued calling upon the private respondents to secure compliance of the sanctioned plan by locking and sealing the premises and carrying out demolition of the deviated/unauthorised portion of the building. After the respondents 1 and 2 have initiated action to ensure that the deviated unauthorised construction is removed, we do not propose to interfere at this stage. However, we direct the authorities to take consequential action thereafter in accordance with law and on merits, within the specified period prescribed under the Provisions of law.

3. It is also brought to our notice that similar notice has been issued to the petitioner in respect of his property situated at Plot No.10/136 E-Type at Villivakkam, Phase-I, Chennai-49. We do not propose to make any observation in respect of such notice as it is for the petitioner to take appropriate steps as required under law, as advised.

4. This writ petition is disposed of accordingly. Connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ra

To

1. The Commissioner
Corporation of Chennai, Rippon Buildings,
Chennai 600 003
2. The Member Secretary
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Buildings,
No.1 Gandhi Irvin Road, Egmore,
Chennai 600 008

+1cc to M/s.N.Sampath, Advocate, S.R.No.12232
+1cc to M/s.S.Ratnasabapathy, Advocate, S.R.No.11587
+1cc to Mr.A.Nagarajan, Advocate, S.R.No.11612

GP(CO)
CA(18/03/2015)

W.P. No.1244 of 2015
and
M.P. Nos. 1 & 2 of 2015

WEB COPY