

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2015

CORAM:

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

W.P. No.13833 of 2015
and
M.P. No.1 of 2015

S. Thiagarajan

... Petitioner

Vs.

1. The Member Secretary
Chennai Metropolitan Development Authority
No.2, Gandhi Irwin Road
Egmore, Chennai 600 008
2. The Commissioner
Corporation of Chennai
Ripon Buildings
Park Town, Chennai 600 003
3. The Housing and Urban Development Department
represented by its Secretary
Government of Tamil Nadu
Fort St. George, Chennai - 600 009
4. Manibhadra Enclave Flat Owners Association
No.121, Anna Pillai Street
Sowcarpet, Chennai 600 079

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1 to 3 to remove the unauthorised construction put up at the house, ground and premises bearing Door No.121, Anna Pillai Street, Sowcarpet, Chennai - 79 duly put up by the fourth respondent.

For petitioner : Mr. D. Ashok Kumar

For R1 : Mr. K. Raja Shrinivas,
Standing Counsel

For R2 : Ms. Karthikaa Ashok,
Standing Counsel

ORDER

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

The petitioner has filed this writ petition seeking a writ of mandamus directing the respondents 1 to 3 to remove the unauthorised construction put up by the fourth respondent at the house, ground and premises bearing Door No.121, Anna Pillai Street, Sowcarpet, Chennai 600 079.

2. The petitioner has averred in paragraph no.4 of the affidavit filed in support of the writ petition as under:

"4. Thereafter, on the basis of the communication issued by the Government, the Chennai Metropolitan Development Authority had issued a lock and seal notice dated 27.02.2015. In the said communication, it had been said in detail that the entire construction is unauthorised and hence, it had declared that the entire construction is illegal. That as against the lock and seal notice, the fourth respondent instead of removing the unauthorised construction had filed an appeal dated 10.03.2015 and the matter is now lying in the cold storage without any progress. . . ."

3. The appeal filed by the fourth respondent against the order of lock and seal of the subject premises, is pending consideration before the appellate authority. The petitioner is claiming to be a neighbour of the said premises. Since a direction is issued to remove the unauthorised construction in the premises, which is under lock and seal, the law would take its own course on appeal, as the appeal has been filed on 10.03.2015. This is a clear case of misuse of judicial process and waste of Court's time and as such, this practice is deprecatory.

4. Therefore, the writ petition is dismissed with costs quantifying to be a sum of Rs.15,000/- (Rupees Fifteen Thousand only), payable to the Tamil Nadu Mediation and Conciliation Centre, High Court Campus, Chennai, within a period of two weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is also dismissed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

usk/cad

To

1. The Member Secretary
Chennai Metropolitan Development Authority
No.2, Gandhi Irwin Road
Egmore, Chennai 600 008
2. The Commissioner
Corporation of Chennai
Ripon Buildings
Park Town
Chennai 600 003
3. The Secretary
Housing and Urban Development Department
Government of Tamil Nadu
Fort St. George
Chennai - 600 009

+1cc to Mr.A.Karthika Ashok, Advocate, S.R.No.26319
+1cc to Mr.K.Raja Shrinivas, Advocate, S.R.No.24581
+1cc to Mr.D.Ashok Kumar, Advocate, S.R.No.24390

W.P. No.13833 of 2015

TEJ(CO)
CA(13/05/2015)