

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 01-06-2015

CORAM:

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

W.P.No.33775 of 2014

1 R.Vairavan
S/o.Ramasamy
No.57/27 Asiriyar Street
Kamaraj Nagar
Vyasarpadi
Chennai-600 039.

Petitioner

Vs

1 The Member Secretary
Chennai Metropolitan Development Authority
No.1 Gandhi Irwin Road
Egmore
Chennai- 600008.

2 The Commissioner
Corporation of Chennai
Ripon Buildings
No.113 Ponnammallee High Road
Chennai-600 003.

3 The Additional Commissioner
Corporation of Chennai
Ripon Buildings
No.113 Ponnammallee High Road
Chennai-600 003.

4 The Joint Commissioner
Corporation of Chennai
Ripon Buildings
No.113 Ponnammallee High Road
Chennai-600 003.

5 The Deputy Commissioner
Corporation of Chennai
Ripon Buildings
No.113 Ponnammallee High Road
Chennai-600 003.

6 The Regional Joint Commissioner
Corporation of Chennai
Zone- North
No.61 Moolakothalam
Chennai-600 021.

7 Mrs.Anandi Devi
W/o.Madanlal
No.25/1 Asiriyar Street
Kamaraj Nagar
Vyasarpadi
Chennai-600 039.

Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondents 1 to 6 to perform their statutory duty of demolishing the illegally constructed superstructure constructed by the 7th respondent at No.25/1, Asiriyar Street, Kamaraj Nagar, Vyasarpadi, Chennai-600039.

For petitioner :: Mr. V. Yamuna Devi

For respondents :: Mr. N. Sampath for R1
Mr. A. Nagarajan for RR2 to 6
Mr. J.R.K. Bhavanantham for R7

ORDER

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

The petitioner, claiming to be a resident of neighbouring area of the seventh respondent, has come up with the instant petition seeking a direction to the respondent Nos.1 to 6 to remove the illegally constructed superstructure made by the seventh respondent at No.25/1, Asiriyar Street, Kamaraj Nagar, Vyasarpadi, Chennai - 600 039.

2. In pursuance of the notice dated 07-04-2015 issued by this court, the sixth respondent, by affidavit dated 22-04-2015, had stated that a locking, sealing and demolition notice under Sections 56 and 57 read with Section 85 of the Town and Country Planning Act, 1971 (for short "the Act") was issued on 01-04-2015. Thereafter, after completion of 30 days of notice period, further action shall be taken under provisions of law.

3. We are informed that, in the meantime, the seventh respondent had preferred a statutory revision under Section 80(1) of the Act, on 29-04-2015. The seventh respondent had further come up with a writ petition viz., W.P.No.14138 of 2015 seeking a direction to the State Government to consider and decide the aforestated revision at the earliest. The Division Bench, by order dated 06-05-2015, directed the State Government to dispose of the revision, within a period of eight weeks from the date of receipt of a copy of the order and also status quo in respect of the property, in question, was granted.

4. In view of the above, it is clear that the alleged encroacher, viz., the seventh respondent had questioned the aforestated notice, dated 01-04-2015, issued under Sections 56 and 57 read with Section 85 of the Act before the revisional authority, which is seized of the matter and also, in view of the direction passed by the Division Bench of this Court by order, dated 06-05-2015, in W.P.No.14138 of 2015, to dispose of the revision within a period of eight weeks from the date of receipt of a copy of the order and also granting status quo in respect of the property, in question, it is not apposite to pass any order, at this stage, in this writ petition.

5. The main grievance of the petitioner is that no action has been taken by the authorities viz., the respondent Nos.1 to 6 for removal of the illegal construction. The issue is pending before the revisional authority and it is not proper at this stage to continue with the writ petition and thus, the writ petition has to be closed. However, it is necessary to direct the authorities responsible for ensuring that no illegal structure is raised and to take appropriate steps, after proper adjudication and disposal of pending statutory revision, as aforestated.

6. With these observations, we dispose of the writ petition. No costs.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

To

1 The Member Secretary

Chennai Metropolitan Development Authority

No.1 Gandhi Irwin Road, Egmore, Chennai- 600008.

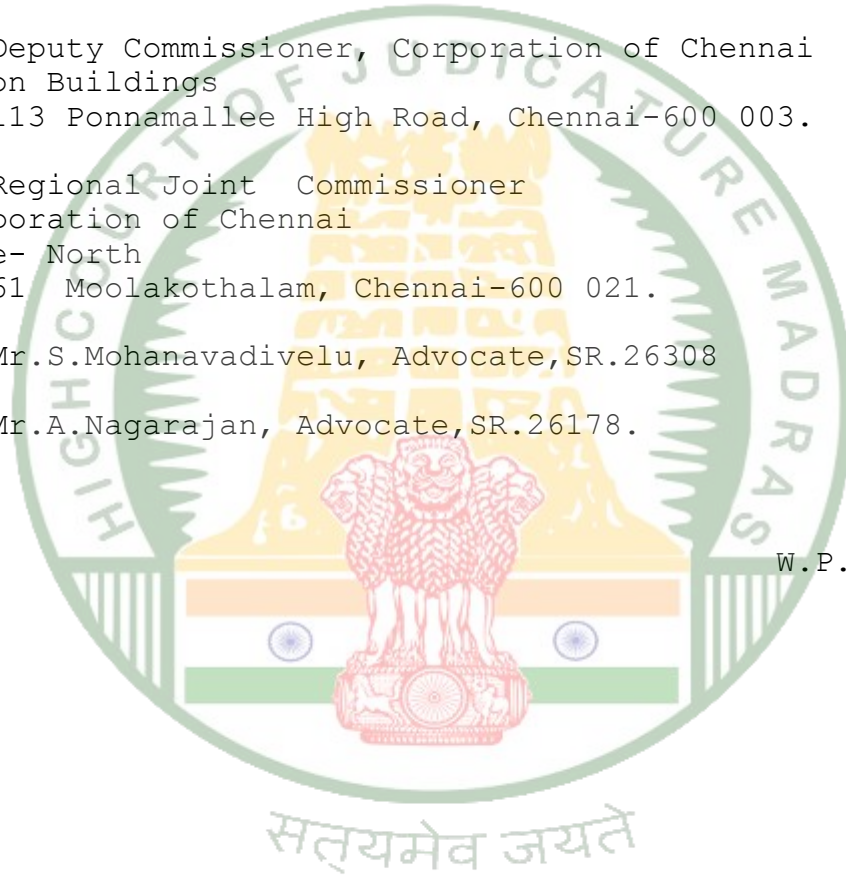
- 2 The Commissioner, Corporation of Chennai
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- 3 The Additional Commissioner, Corporation of Chennai
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- 6 The Regional Joint Commissioner
Corporation of Chennai
Zone- North
No.61 Moolakothalam, Chennai-600 021.

+1 cc to Mr.S.Mohanavadivelu, Advocate,SR.26308

+1 cc to Mr.A.Nagarajan, Advocate,SR.26178.

jsv(co)
krd 9/6

W.P.No.33775 of 2014



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