

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI

and

THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. No.18134 to 18142 of 2015 and M.P. Nos.1 & 2 of 2015

Sharda Maloo	Petitioner in WP No.18134/2015
Rajkumar Sharma	Petitioner in WP No.18135/2015
Manak Chand Kumawat	Petitioner in WP No.18136/2015
N.Chandrakanth	Petitioner in WP No.18137/2015
Naresh Kumar	Petitinoer in WP No.18138/2015
Kamlesh A.Jain	Petitioner in WP No.18139/2015
Deepa S.Panwar	Petitioner in WP No.18140/2015
N. Rama Devi	Petitioner in WP No.18141/2015
Karitha Jain	Petitioner in WP No.18142/2015

Vs.

- 1 The Commissioner
Corporation of Chennai
Ripon Buildings
Chennai 600 003
- 2 The Regional Deputy Commissioner-North
Corporation of Chennai
Ripon Buildings
Chennai 600 003
- 3 The Executive Engineer
Corporation of Chennai
Enforcement RDC (North) Office
Chennai 600 021

Respondents in all WP's

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of certiorari, calling for the entire records on the file of the third respondent's impugned notice issued in Lr.No.Enf/Dn54/023/2015 dated 10.04.2015 and quash the same as illegal.

For petitioner
in all the WPs

Mr. C.H. Vinobha Gandhi

For respondents
in all the WPs

Ms. Karthikaa Ashok
Standing Counsel

ORDER

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

Ms. Karthikaa Ashok, learned Standing Counsel, accepts notice for the respondents. With the consent of the learned counsel for the parties, the writ petitions are taken up for final disposal, at the admission stage itself.

2 The instant writ petitions are filed challenging the locking, sealing and demolition notice dated 10.04.2015 issued under Section 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act"), whereby and whereunder, the Corporation of Chennai, after inspecting the petitioners' premises and noticing certain deviations/unauthorised construction, has called upon the petitioners to secure compliance with the sanctioned plan within 30 days. By the said notice, the petitioners have been further informed that in default, action would be taken under the relevant provisions of the Act to secure compliance with the sanctioned plan by locking and sealing the premises and carrying out demolition of the deviations/unauthorised construction, without any further notice.

3 According to the learned counsel for the petitioners, the petitioners are the owners of the premises in question. Pursuant to some observations made by this Court in W.P. No.16555 of 2014, the impugned locking, sealing and demolition notice has been issued without serving a copy of the same on the petitioners and only the occupants of the premises have been served with the impugned notice.

4 Be that as it may, as the impugned notice does not indicate any reference to earlier show cause notice or any notice, except reference to a writ petition, we presume that the impugned notice is the first notice issued to the occupants of the premises. The petitioners, being the owners of the premises in question, are entitled to notice before any action of removal of alleged unauthorised construction is taken. On a perusal of the impugned notice, it appears that the name of the Power of Attorney is indicated as one N. Rama Devi to whom the notice has been issued and not the petitioners.

5 In such view of the matter, the petitioners are entitled to make a representation, pointing out their ownership/title and also the fact that the entire construction is in conformity with the approved plan. Such a representation may be made within a period of two weeks from today. Thereafter, the authorities are entitled to take action on proper verification and scrutiny. The authorities may also examine as to whether the petitioners are the owners of the premises in question or N. Rama Devi shown in the notice itself. The entire exercise shall be completed within a period of four weeks from today.

6 With the above directions, the writ petitions stand disposed of. Costs made easy. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cad
To

- 1 The Commissioner
Corporation of Chennai
Ripon Buildings
Chennai 600 003
- 2 The Regional Deputy Commissioner - North
Corporation of Chennai
Ripon Buildings
Chennai 600 003
- 3 The Executive Engineer
Corporation of Chennai
Enforcement RDC (North) Office
Chennai 600 021

+1cc to M/s. Karthikaa, Advocate, S.R.No.30932
+9ccs to Mr.C.K.Vinobha Gandhi, Advocate, S.R.No.

SAI(CO)
EU(03/07/2015)

W.P. No.18134 to 18142 of 2015