

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-01-2015

CORAM:

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

W.P.No.1845 of 2015

Mahaveer C.Jain

14/30 Rangaiah Street Choolai
Chennai-600 112.

Petitioner

Vs

1 The Corporation of Chennai
Rep. by its Commissioner Ripon Buildings
Chennai-600 003.

2 The Executive Engineer
Corporation of Chennai Zone-VII Division
No.100 Choolai Chennai-112.

Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondents to remove the Lock and Seal affixed on 19.07.2011 to the premises at No.14/30 Rangaiah Street Choolai Chennai-112 on the representation dated 23.05.2014 and 19.01.2015 so as to enable the petitioner to rectify and remove the deviations in the said building within a reasonable time and bring the same in consonance to the sanction plan and of the Development Control Regulations.

For petitioner :: Mr. Martin Jeyakumar
For respondents :: Mr. A. Nagarajan

ORDER

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

With consent, the main writ petition is taken up for final consideration on the admission stage itself.

2 Mr. A. Nagarajan, learned Standing counsel, accepts notice for the respondents.

3 The indisputable facts, as projected by the petitioner are that he applied for sanction for construction of stilt + 2 floors in his premises in Door No.14/30, Rangaiah Street, Choolai, Chennai 600 112, from the Chennai Corporation, in 2009. While putting up construction, he had made some additions and alterations to the building. Hence, he sought to regularise the said construction by Chennai Metropolitan Development Authority (for short "the CMDA") which was not considered, against which, the petitioner preferred an appeal before the Government. While so, the Chennai Corporation issued locking and sealing notice dated 06.06.2011, including the sanctioned portion of stilt + 2 floors. The petitioner's attempt to the Government to remove the lock and seal, in his appeal, did not yield any positive result. Hence, the petitioner approached the Chennai Corporation/respondents herein, repeatedly, requesting them to de-seal the premises, thereby enabling him to rectify the deviations with an undertaking that he would not pursue his appeal before the Government. However, the respondents did not consider the petitioner's request on the ground that they do not have the power in regard thereto. The petitioner's last representation to the respondents in this regard was made on 19.01.2015. Finding no response from the respondents, the petitioner has come up with the instant writ petition.

4 The learned counsel for the petitioner submits that the petitioner is ready and willing to demolish the unauthorized portions for the purpose of restoring the building in its original position in terms of the planning permission granted by the Corporation.

5 Considering the facts and circumstances of the case, the petitioner is given liberty to make an application before the first respondent with a request to permit him to demolish the unauthorised structure. In case, any such application is given, the first respondent is directed to grant permission for the purpose of demolishing the unauthorised structure. The petitioner is granted eight weeks' time to rectify the deviations. After the petitioner demolishes the unauthorized structure, the first respondent shall inspect the building once again to confirm as to whether the unauthorised structure has been removed. If it is found that the entire unauthorised structure is removed, the first respondent shall process the matter further. In case, the unauthorised structure is not removed within the time given, the first respondent is permitted to take further action, in accordance with law.

6 The writ petition is disposed of with the above directions.
No costs.

glp

-s/d-

Assistant Registrar()

Dt:3/2/2015

True Copy

Sub-Assistant Registrar

To

1 The Corporation of Chennai
Rep. by its Commissioner Ripon Buildings
Chennai-600 003.

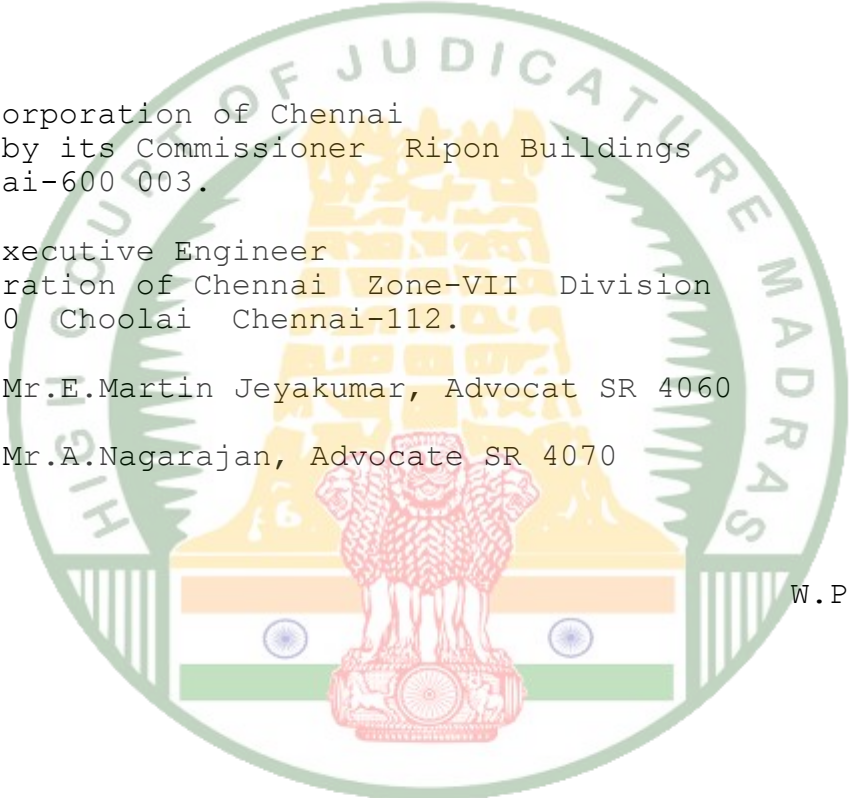
2 The Executive Engineer
Corporation of Chennai Zone-VII Division
No.100 Choolai Chennai-112.

+ 1 cc to Mr.E.Martin Jeyakumar, Advocat SR 4060

+ 1 cc to Mr.A.Nagarajan, Advocate SR 4070

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