

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14-7-2015

CORAM:

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

W.P. No.196 of 2015
M.P.No.1 of 2015

M/s.Sathrasala Venkatachalam Chetty Estate,
rep.by its Executor Sharath Babu,
No.166 & 169, NSC Bose Road,
Chennai - 600 079.

...Petitioner

Vs.

1. The Commissioner,
Corporation of Chennai,
Ripon Building,
Chennai - 600 003.
2. The Executive Engineer-V,
Zonal Office-V, Corporation of Chennai,
No.61, Basin Bridge Road,
Chennai - 600 079.
3. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road, Egmore,
Chennai - 600 008.

...Respondents

(R-3 impleaded as per order of the Court made in
M.P.No.2 of 2015 dated 30.6.2015)

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents to de-seal the petitioner's building at Door No.166-169 of NSC Bose Road, Sowcarpet, Chennai, sealed by the respondents on 22.12.2014.

For petitioner : Mr.T.S.Baskaran
For Respondents 1 & 2 : Mr.K.Soundararajan
For 3rd Respondent : Mr.K.Raja Srinivas

O R D E R

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

The petitioner, a Trust, is said to be the owner of the property bearing No.166 & 169, NSC Bose Road, Sowcarpet, Chennai. According to the petitioner, it has put up a construction strictly in accordance with the planning permission, obtained from the authorities, on the ground and first floors. There were certain deviations and also some more floors were raised.

2. Noticing the afore-stated illegal construction and deviation in the building in question, the said building was sealed on 12th December, 2012. The petitioner Trust filed a writ petition being W.P.No.16804 of 2013 seeking to de-seal the building. This Court by order dated 4th October, 2013, permitted the petitioner to obtain regularisation of second floor and also for demolition of third and fourth floors. Thereafter the petitioner filed a miscellaneous petition being M.P.No.3 of 2013 in W.P.No.16804 of 2013 seeking modification of the earlier order dated 4th October, 2013. This Court while disposing of the said petition passed the following order on 16th December, 2013:

"4. Considering the said submission, we direct the third respondent to de-seal the premises within a period of two weeks from the date of receipt of a copy of this order. After de-sealing is done by the third respondent, the petitioner is permitted to carry out the demolition of the third and fourth floors within two weeks. It is made clear that the petitioner shall take all precautionary safety measures while demolishing the third and fourth floors. It is open to the third respondent to impose such other condition for the above said purpose. The demolition of the third and fourth floors will have to be carried out under the supervision of the third respondent. After completing the said exercise, it is open to the petitioner to make out an application for regularization of the second floor."

3. The learned counsel appearing for the petitioner submitted that after demolishing the third and fourth floors, liberty was given to the petitioner to make an application for regularisation of the second floor. Pursuant thereto, petitioner made an application on 1st November, 2014 to the first respondent. In the meantime, during pendency of the application for regularisation, the premises was re-sealed. Thus, the instant writ petition seeking direction to the respondents to de-seal the building in question.

4. Pursuant to the notice, the second respondent has come up with a counter affidavit stating that the application was made to the first respondent/Corporation, who is not a competent to consider the application for regularisation in respect of the second floor. Accordingly the same was returned back on 27th February, 2015.

5. The learned counsel appearing for the petitioner submitted that an application was submitted to the competent authority i.e., Chennai Metropolitan Development Authority (for short 'CMDA') on 11th June, 2015 and the same is pending.

6. The learned counsel appearing for the CMDA/third respondent submits that appropriate decision shall be taken as per law and on its own merit within a period of two weeks from today.

7. In that view of the matter, we are not inclined to pass any order at this stage for de-sealing the building in question. The CMDA/third respondent is accordingly directed to consider the application of the petitioner dated 11th June, 2015 and take a decision on merits and in accordance with law within a period of two weeks from the date of receipt of copy of this order. The building in question shall continue in sealing, till a decision is taken as afore-stated.

8. The writ petition stands disposed of accordingly. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

vr

To

1. The Commissioner,
Corporation of Chennai,
Ripon Building,
Chennai - 600 003.
2. The Executive Engineer-V,
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3. The Member Secretary,
Chennai Metropolitan Development Authority,
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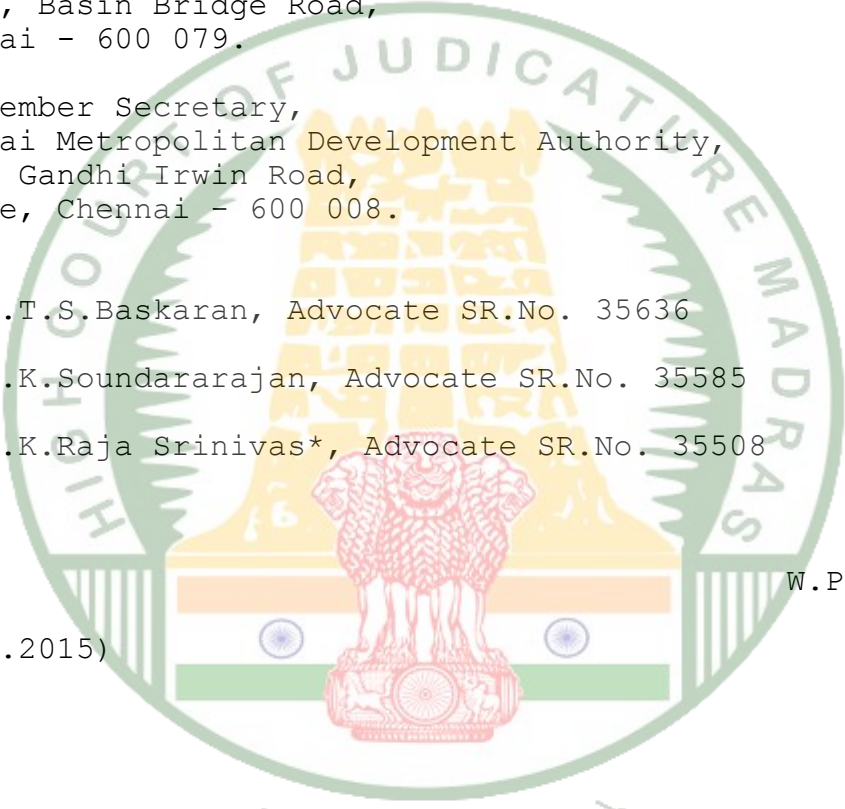
1 CC to Mr.T.S.Baskaran, Advocate SR.No. 35636

1 CC to Mr.K.Soundararajan, Advocate SR.No. 35585

1 CC to Mr.K.Raja Srinivas*, Advocate SR.No. 35508

CA (CO)
PSI (27.07.2015)

W.P. No.196 of 2015



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