

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2015

CORAM

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

W.P. No.21568 of 2015

P. Sambandhan

... Petitioner

Vs.

1. The Chennai Metropolitan Development Authority
represented by its Member Secretary
Thalamuthu Natarajan Maligai
Gandhi Irwin Road
Egmore, Chennai 600 008
2. The Commissioner
Corporation of Chennai
Ripon Building, Park Town, Chennai 600 003
3. The Assistant Engineer
Division No.109 (76)
Gill Nagar
Choolaimedu, Chennai 600 094

4. Hari

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1 to 3 to consider the petitioner's representations dated 26.06.2014, 12.07.2014 and 02.04.2015 to stop, demolish and permanently remove the illegal, unsanctioned and unauthorised construction carried out by the fourth respondent at Plot No.3, Door No.48/46, West Namasivayapuram, Choolaimedu, Chennai 600 094 within a time-frame.

For petitioner : Mr. A. Edwin Prabakar

For R1 : Mr. C. Johnson, Standing Counsel

For RR 2 & 3 : Mrs. Karthikaa Ashok, Standing Counsel

ORDER

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

Mr. C. Johnson, learned Standing Counsel, accepts notice for the first respondent. Ms. Karthikaa Ashok, learned Standing Counsel, accepts notice for respondents 2 and 3. It is not necessary to issue notice to the fourth respondent, as this is a case of mere consideration of the petitioner's representations and no decision can be taken on the said representations without affording an opportunity of hearing to the fourth respondent, who is allegedly an encroacher. Thus, with the consent of the learned counsel for the petitioner and the learned Standing Counsel for the official respondents, we are passing this order at the admission stage itself, waiving notice to the fourth respondent.

2. The only limited relief sought in this writ petition is a direction to the respondents 1 to 3 to consider the petitioner's representations dated 26.06.2014, 12.07.2014 and 02.04.2015 within a reasonable time.

3. According to the learned counsel for the petitioner, the petitioner is residing at No. 46/47, West Namasivayapuram, Choolaimedu, Chennai - 94. Having noticed the deviation made by his neighbour, viz., the fourth respondent, which has caused obstruction and nuisance to other residents, the petitioner has addressed a representation dated 26.06.2014 to the second respondent. Yet, the deviation continued unabated without any action on the part of the officers. Hence, the petitioner addressed a representation dated 12.07.2014 to the first respondent. Acting on the said representation, a communication dated 02.09.2014 was sent by the first respondent to the Corporation authorities with a copy marked to the petitioner, requesting the addressees to take enforcement action against the alleged unauthorised construction as per the Chennai City Municipal Corporation Act, 1919. Finding no response, the petitioner submitted yet another representation dated 02.04.2015 to the first respondent. Till date, no action has been taken on the petitioner's aforesaid representations. Thus, the instant writ petition seeking a writ of mandamus, as stated above.

4. Ms. Karthikaa Ashok, learned Standing Counsel for the Chennai Corporation submits that appropriate steps shall be taken on merits and in accordance with law, within a period of four weeks, to ensure that there is no deviation or unauthorised construction in the property in question.

5. In view of the above submission made by the learned Standing Counsel for the Chennai Corporation, no further adjudication is necessary in this writ petition. We direct the Chennai Corporation to take necessary action in the matter within a period of four weeks from the date of receipt of a copy of this order. Needless to state that an opportunity of being heard be given to the alleged encroacher, viz., the fourth respondent, before resorting to enforcement action.

6. The writ petition stands disposed of with the aforesaid direction and observation. Costs made easy.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

cad

To

1. The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Maligai
Gandhi Irwin Road
Egmore, Chennai 600 008
2. The Commissioner
Corporation of Chennai
Ripon Building, Park Town, Chennai 600 003
3. The Assistant Engineer
Division No.109 (76)
Gill Nagar
Choolaimedu, Chennai 600 094

+lcc to M/s.A.Edwin Prabhakar, Advocate, S.R.No.30466

+lcc to Mr.C.Johnson, Advocate, S.R.No.36519

+lcc to M/s.Karthikaa Ashok, Advocate, S.R.No.36615

W.P. No.21568 of 2015

RSI (CO)
CA(28/07/2015)