

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE K.K.SASIDHARAN

W.P. No. 28123 of 2015

Shk. Jaffarus Sadhik

... Petitioner

Vs.

1. The Member Secretary,
Chennai Metropolitan Development Authority,
Gandhi Irwin Road, Egmore, Chennai-8.
2. The Enforcement Wing,
Chennai Metropolitan Development Authority,
Thalamuthu Building,
No.1 Gandhi Irwin Road,
Egmore, Chennai-8.
3. The Commissioner,
Corporation of Chennai, Rippon Building,
E.V. R. Salai Chennai-3.
4. Mohammed
5. Mutuza Khatawala

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the 1st to 3rd respondent to investigate the Construction of the 4th and 5th respondents at No. 42/85 Armenian Street, Parrys, Chennai - 600 001, by M/s. Burhani Constructions and to act according to the provisions of Sec. 56 and Sec. 57 of the Tamil Nadu Town and Country Planning Act, 1971, and according to the provisions of the Chennai City Municipal Corporation Act, 1919.

For petitioner : No Appearance

For respondents : Mr. P.H.Arvind Pandian
Additional Advocate General
assisted by
Mr. N. Sampath - R1 & R2
Mr. V.C. Selvasekaran - R3

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

This writ petition is filed seeking a direction to respondents 1 to 3 to investigate the construction of 4th and 5th respondents at No. 42/85 Armenian Street, Parrys, Chennai - 600 001 and to act according to the provisions of Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act") and also the provisions of the Chennai City Municipal Corporation Act, 1919.

2. The case of the petitioner is that the respondents 4 and 5 have constructed fourth and fifth floors in the building at No. 42/85 Armenian Street, Parrys, Chennai - 600 001, sans any approval of the authorities concerned. Thus, a direction be issued to the authorities concerned to take necessary action in accordance with law, as required under the provisions of the Act, to remove the unauthorised and unapproved construction put up by respondents 4 and 5.

3. Pursuant to the order of this Court dated 23 September 2015, the first respondent, viz., the Member Secretary, Chennai Metropolitan Development Authority, has filed an affidavit in the form of action taken report on 29 September 2015, stating therein that the entire building in question has been locked and sealed. The relevant portion of the said affidavit reads as under:

"(2) I respectfully submit that CMDA already served stop work notice/ notice calling approved plan in No. A 1065, dated 20.3.2015. Since no response from the builder/ owner of the building, CMDA issued locking and sealing and demolition notice and de-occupation notice dated 14.07.2015 against the building at Old Door No.42 Armenian Street, Chennai.1.

(3) I further submit that the building consisting of ground floor + Mezzanine floor + 3 floors commercial-cum-residential building constructed at New Door No.85, Old No.42, Armenian Street, George Town, Chennai.1 is an unauthorised one.

(4) I further humbly submit that as per the orders of the Hon'ble Court directing CMDA to lock and seal the premises at once. It is humbly submitted that the entire commercial usage of the building in the ground floor was locked and sealed on 22.09.2015. Thereafter, De-occupation notice was served individually on the occupants of the first floor to 3rd floor on 23.09.2015. Since the occupants have failed to vacate the building, CMDA persuaded the occupants to vacate the premises from 1st floor to 3rd floor (5 residential dwelling units + 1 office building). Thereafter, CMDA enforcement cell locked and sealed the entire building consisting of ground floor + 3 floors at New Door No.85, Old No.42, Armenian Street, George Town, Chennai.1, on 29.09.2015. Presently, the entire building is fully locked and sealed."

4. The fifth respondent herein has preferred a separate writ petition being W.P. No.30686 of 2015, questioning the correctness of the de-occupation notice dated 22 September 2015, which has been dismissed as withdrawn, today, by a separate order. In the said order, the appellate authority was directed to consider the appeal within the prescribed statutory period and also to consider the interim application within a period of two weeks.

5. In view of the aforestated admitted factual matrix, nothing survives for adjudication in this writ petition. Accordingly, this writ petition is closed. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ra/cad

To

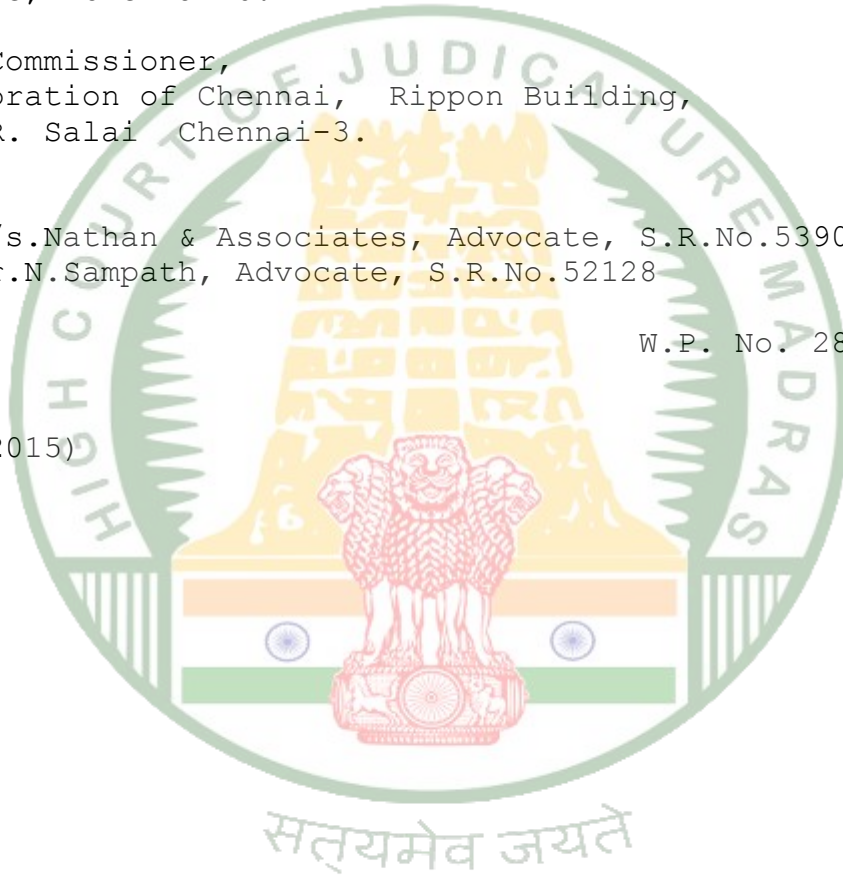
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Corporation of Chennai, Rippon Building,
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+1cc to M/s.Nathan & Associates, Advocate, S.R.No.53905

+1cc to Mr.N.Sampath, Advocate, S.R.No.52128

W.P. No. 28123 of 2015

KU (CO)
CA(16/10/2015)



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