

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 21.9.2015

CORAM:

THE HONOURABLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.P. No.6741 of 2011

1 JAMUNA BAI
2 LALITHA RANI
3 BHARATHY
4 SUNDARARAJAN
5 SUKUMAR
6 KRISHNA KUMAR
7 SHANMUGAM
8 MALA
9 K.V.SAROJINI DEVI
10 K.V. KRISHNAKUMAR
REPRESENTED BY THEIR POWER AGENT
MR.VIKAS KOTHARI ... petitioners

versus

1 THE MEMBER SECRETARY
CHENNAI METROPOLITAN DEVELOPMENT AUTHORITY
NO.1 GANDHI IRWIN ROAD EGMORE CHENNAI-8.
2 THE COMMISSIONER
CORPORATION OF CHENNAI RIPPON BUILDINGS
PARK TOWN CHENNAI-3. ... respondents

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to call for the records on the file of the first respondent culminated in letter No. EN2/5463/2010 dated 14.05.2010 and quash the same and consequently forbear the respondents from interfering with the peaceful possession and enjoyment of the premises bearing Old Door No.45 New Door No.99 Swamy Pillai Street Choolai Chennai-112.

For petitioners : Mr.D.S.Rajasekaran

For Respondents : Mr.K.Rajasrinivas, for R-1
Mr.K.Soundararajan, for R-2

O R D E R

(made by K.K.SASIDHARAN, J.)

The challenge in this Writ Petition is to the notice dated 14 May 2010 whereby and whereunder, the Chennai Metropolitan Development Authority (hereinafter referred to as CMDA), called upon the petitioners to restore the land to its original condition within a period of thirty days. The notice was issued under sub Section (2A) of Section 56 of Tamil Nadu Town and Country Planning Act.

2. Heard the learned counsel for the petitioners, learned Standing Counsel for CMDA and the learned counsel for Chennai Corporation.

3. It is the case of the petitioners that CMDA pursuant to their application, issued planning permission for construction of ground plus first floor residential building with four dwelling units. Building permission was issued on 3 March 2008. According to the petitioners, since the family is a big one, they have constructed stilt plus six floors to accommodate all of its members.

4. The Corporation issued a notice on 4 May 2010 directing the petitioners to stop the work. Subsequently, the impugned notice was issued. The notice dated 14 May 2010 was issued by CMDA to restore the land to its original position. Thereafter, notice was issued by CMDA on 22 November 2010 to vacate the property for the purpose of demolition. The petitioners have filed the Writ Petition immediately and obtained interim order on 21 March 2011.

5. It is the admitted case of the petitioners that building permission was granted only to put up ground + first floor with four dwelling units. However, the fact remains that the petitioners have constructed stilt + 6 floors. The additional 2nd, 3rd, 4th, 5th and 6th floors are therefore unauthorized.

6. The petitioners have no regard to the building laws. The fact that the petitioners have got a big family would not give them a right to put up construction beyond the floors permitted by CMDA. We are therefore of the view that there is absolutely no merit in the contention taken by the petitioners.

7. In the result, the Writ Petition is dismissed. No costs. The interim order granted in M.P.No.1/2011 dated 21 March 2011 is recalled.

8. We direct the Member Secretary, CMDA and Commissioner, of Chennai Corporation to implement the decision communicated by notices dated 14 May 2010 and 21 November 2010 and report compliance to the Registrar General of this Court within a period of seven days from the date of receipt of a copy of this order

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

tar

1. THE REGISTRAR GENERAL, HIGH COURT, MADRAS.

2 THE MEMBER SECRETARY
CHENNAI METROPOLITAN DEVELOPMENT AUTHORITY
NO.1 GANDHI IRWIN ROAD EGMORE CHENNAI-8.

3 THE COMMISSIONER
CORPORATION OF CHENNAI RIPPON BUILDINGS
PARK TOWN CHENNAI-3.

+1cc to Mr.K. Soundararajan, Advocate, S.R.No.51678

+1cc to Mr.D.S. Rajasekaran, Advocate, S.R.No.51330

+ 1 cc to M/s. K, Raja Shirinivas, Advocatge SR.51666

SK(CO)

EU(12/10/2015)

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