

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE DR. JUSTICE P.DEVADASS

W.P. No. 34586 of 2015
M.P.No. 1 of 2015

Mrs.Shanthi Folie .. Petitioner

Vs.

1 The Chennai Metropolitan
Development Authority,
Rep.by its Member Secretary,
No.1,Gandhi Irwin Road,
Egmore, Chennai-8.

2. Mr.Naveen Kumar Agrawal ... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the 1st respondent to take appropriate action on the unapproved construction put up in the Ground floor and the 4th floor of the premises by the 2nd respondent in the premises bearing New No.23, Old No.10, Damodaramurthy Road, Kilpauk, Chennai-600 010 in pursuance of the non-compliance of the order passed in W.P.No.24811 of 2014, dated 24.09.2014, obtained by the 2nd respondent herein.

For petitioner :Mr.K.S.Kumar
For respondents :Mr. K.Raja Srinivas for R1
Mr.R.Manickavel for R2

ORDER

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

Mr.K.Raja Srinivas, learned Standing counsel accepts notice for the first respondent. Mr.R.Manickavel, learned counsel accepts notice for the second respondent. With the consent of the learned counsel for the parties, the writ petition is taken up for final disposal, at the admission stage itself.

2. This writ petition is filed seeking a direction to the first respondent to take appropriate action on the unapproved construction put up, in the Ground floor and the 4th floor of the premises, by the 2nd respondent in the premises bearing New No.23, Old No.10, Damodaramurthy Road, Kilpauk, Chennai-600 010, in pursuance of the non-compliance of the order passed in W.P.No.24811 of 2014, dated 24.09.2014, obtained by the 2nd respondent herein.

3. The case of the petitioner is that the construction of Ground and fourth floors in the building bearing New No.23, Old No.10, Damodaramurthy Road, Kilpauk, Chennai-600 010, by the second respondent, 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 the second respondent.

4. Earlier, the petitioner filed a writ petition in W.P.No.24811 of 2014, seeking a direction to the first respondent to de-seal the Ground and Fourth floor of the premises in question and the same was disposed of by this Court, vide order dated 24.09.2014. The operative portion of the order in the writ petition reads as follows:

"In the light of the affidavit filed in support of the writ petition seeking to de-seal the premises for the purpose of rectifying the deviations, the writ petition may be disposed of, with a direction to the petitioner to restore the building after rectifying the deviations and if the deviations are found even after four months, liberty may be given to the first respondent to again issue the lock and seal order.

In the light of the said submissions made, the writ petition is disposed of, treating the said appeal filed by the petitioner before the Government, as withdrawn, and with a direction to the first respondent to de-seal the said premises within one week from today so as to enable the petitioner to rectify the deviations and restore the building as per the approved plan, within a period of four months and after expiry of four months, it is open for the first respondent to

inspect the premises and find out as to whether there is any further deviation and if so, it is open for the first respondent to again initiate the lock and seal proceedings in accordance with law."

5. The first respondent has filed a counter affidavit, wherein it is stated as follows:

"6. I further submit that the 2nd respondent has not obeyed the orders of the Hon'ble Division Bench, after de-sealing the building on 20.10.2014 (based on the court order), to rectify the deviations within the stipulated time given by the Court (four months), further as the Hon'ble Court has given direction to CMDA to initiate the lock and seal proceedings in accordance with law if the petitioner has not rectified the deviations and restore the building as per the approved plan, CMDA again re-sealed Basement Floor(part) and 4th Floor + 5th Floor (part) of the building on 18.11.2015."

6. It is submitted by the learned Standing counsel for the first respondent that the authorities have re-sealed the Basement Floor(part) and 4th Floor + 5th Floor (part) of the building bearing New No.23, Old No.10, Damodaramurthy Road, Kilpauk, Chennai-600 010, on 18.11.2015 and de-occupation notice has also been issued to the petitioner on 19.11.2015.

7. In view of the aforestated admitted factual matrix, nothing survives for adjudication in this writ petition. Accordingly, this writ petition stands dismissed. No costs.
msk

s/d-
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

To
The Member Secretary,
Chennai Metropolitan Development Authority,
Gandhi Irwin Road, Egmore, Chennai-8.

+ 1 cc to Mr.K.Raja Srinivas, Advocate SR 64962
+ 1 cc to Mr.K.S.Kumar, Advocate SR 64972
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