

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI

AND

THE HON'BLE DR.JUSTICE P. DEVADASS

W.P. No.34783 of 2015

Estate of Voora Amrudhavalli  
Thayaramma (Ramanuja Koottam)  
represented by its Trustee  
K. Srihari  
No.46, Narayana Mudali Street  
Sowcarpet  
Chennai 600 079

Petitioner

vs.

- 1 Chennai Metropolitan Development Authority  
represented by its Member Secretary  
No.1, Gandhi Irwin Road  
Egmore, Chennai 600 008
- 2 The Chennai Metropolitan Development Authority  
Enforcement Cell  
No.1, Gandhi Irwin Road  
Egmore, Chennai 600 008
- 3 The Vigilance Officer (Building Vigilance Cell)  
The Chennai Metropolitan Development Authority  
No.1, Gandhi Irwin Road  
Egmore, Chennai 600 008
- 4 The Commissioner  
Corporation of Chennai  
Chennai 600 003
- 5 The Executive Engineer  
Corporation of Chennai  
Old Zone II, New Zone V  
No.47, Basin Bridge Road  
Chennai 600 079

- 6 The Assistant Executive Engineer  
Corporation of Chennai  
Old Zone II, New Zone V  
No.47, Basin Bridge Road  
Chennai 600 079
- 7 A. Gunavathy
- 8 Amir Agarwal  
Proprietor  
Sethu Electricals  
No.31, FF Govindappa Naicken Street  
Chennai 600 001

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1 to 6 to remove the illegal/unauthorised construction of the building consisting of Ground, 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> floors situated at Old Door No.46, New No.115, Varadha Muthaiappan Street, Sowcarpet, Chennai - 79, comprised in R.S. No.6144, C.C. A3 40, C.S. 5019, measuring to an extent of 2,540 sq. ft. situated within the registration district of Chennai North and sub-registration district of Sowcarpet.

|                |                                                          |
|----------------|----------------------------------------------------------|
| For petitioner | Mr. P.C. Harikumar<br>for M/s. P.C. Harikumar Associates |
| For RR 1-3     | Mr. K. Raja Srinivas<br>Standing Counsel                 |
| For RR 4-6     | Mr. A. Nagarajan<br>Standing Counsel                     |

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. K. Raja Srinivas, learned Standing Counsel, accepts notice for respondents 1 to 3. Mr. A. Nagarajan, learned Standing Counsel, accepts notice for respondents 4 to 6. Notice to respondents 7 and 8 is dispensed with at this stage, inasmuch as no adverse order is passed against them. Thus, with the consent of the learned counsel for the petitioner and the learned Standing Counsel appearing for respondents 1 to 3 and respondents 4 to 6, the writ petition is taken up for final disposal, at the admission stage itself.

2 By this writ petition invoking extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, the petitioner Trust has sought a direction to

respondents 1 to 6 to remove the illegal and unauthorised construction at Old Door No.46, New No.115, Varadha Muthaiappan Street, Sowcarpet, Chennai 600 079, allegedly put up by the seventh respondent in the property taken on lease from the petitioner Trust and sub-let to the eighth respondent.

3 According to the learned counsel for the petitioner Trust, the seventh respondent is a lessee/tenant under the petitioner Trust and the seventh respondent has put up construction in the land leased out to her and has sub-let the constructed property to the eighth respondent. In respect of the property in question, the petitioner Trust has filed a suit in O.S. No.6057 of 2013 on the file of the IV Assistant City Civil Court, Chennai. In the meantime, the authorities be directed to take action for removal of the alleged unauthorised construction made by the seventh respondent, which is sub-let to the eighth respondent.

4 Be that as it may, it appears that the endeavour of the petitioner Trust by filing this writ petition seems to be seeking eviction of the eighth respondent, to whom the seventh respondent has sub-let the building, under the garb of removal of the alleged unauthorised illegal construction put up by the seventh respondent. The issue of eviction in respect of the same property is pending consideration in the Civil Court. Thus, after obtaining order from the Civil Court, if the petitioner Trust feels that the construction in question is unauthorised and illegal, it is open to the petitioner Trust to take steps to remove such construction, inasmuch as the petitioner Trust is the owner of the land in question on which the seventh respondent has put up such alleged construction.

Resultantly, the writ petition stands dismissed. No costs.

Sd/-

Asst.Registrar (CS II )

/true copy/

Sub Asst. Registrar

cad

To

- 1 The Member Secretary  
Chennai Metropolitan Development Authority  
No.1, Gandhi Irwin Road  
Egmore, Chennai 600 008

- 2 The Chennai Metropolitan Development Authority  
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+1 cc to Mr.K.Raja Srinivas, Advocate, sr.59936

+ 1 cc to Mr.P.C.HARIKUMAR & ASSOCIATES, ADVOCATE SR 60010.  
(5/1/16)

W.P. No.34783 of 2015

jsv co  
kra 18/11/2015

सत्यमेव जयते

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