

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.NO.5375 OF 2015

&

M.P.No.1 of 2015

Smt.Prem Bai

.. Petitioner

Versus

1. The Commissioner,
Corporation of Chennai,
Zone - 5, Chennai.

2. The Regional Deputy Commissioner (North) (i/c),,
Corporation of Chennai,
Zone-5, Chennai.

.. Respondents

* * *

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus calling for the records on the file of the respondent dated 27.11.2014, 06.02.2015 and quash the same as illegal and unenforceable and direct the respondents not to resort demolition of the building.

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For Petitioner : Mr.A.Thiagarajan, Senior Counsel
for M/s.S.Ramesh Kumar

For Respondents: Mr.P.V.Selvakumar,
Standing Counsel

O R D E R

Heard Mr.A.Thiagarajan, learned Senior Counsel for the petitioner and Mr.P.V.Selvakumar, learned Standing Counsel for the respondents.

2. With the consent of both sides, the writ petition itself is taken up for final hearing.

3. The petitioner has filed this writ petition challenging the notice issued by the respondent - Corporation of Chennai, dated 27.11.2014, by which, it has been determined by the respondent Corporation that the building owned by the petitioner is in a ruinous state / dangerous to passers by / to the occupiers of neighbouring

structures. Therefore, they have been directed to fence off, take down and secure or repair the structure so as to prevent any danger therefrom, within seven days of service of such notice.

4. The only ground on which, the impugned proceedings are challenged by the petitioner, is that there was no inspection by the respondent Corporation in his presence and unilaterally, the impugned proceedings have been passed.

5. The learned Standing Counsel appearing for the respondents Corporation submitted that the neighbouring land owner of the building, namely, Cosmopolitan Club, has lodged a complaint stating that the building, which is owned by the petitioner, is in a highly dilapidated state and the concrete blocks and the broken window glasses keep on falling into the residential quarters area and tennis courts of the Cosmopolitan Club. Therefore, they have stated that the building is a threat to the lives of their members and staff and requested for appropriate action.

6. There is another representation given by the Cosmopolitan Club requesting to take immediate action, since the owner of the building, the petitioner, has not taken any steps in spite of the notice dated 27.11.2004.

7. It is submitted by the learned Senior Counsel for the petitioner that the petitioner submitted his reply dated 12.12.2014, which has been sent by Speed Post, to the notice dated 27.11.2014. In spite of the same, the notice dated 06.02.2015 has been issued and the same was served on the petitioner only on 09.02.2015.

8. In the light of the above facts, since it is seen that the inspection was conducted without notice to the petitioner, before taking any further action by the respondents, this Court is of the view that one more inspection should be conducted in the presence of the petitioner as well as the complainant/neighbour - Cosmopolitan Club. Accordingly, there will be a direction to the respondents to conduct a fresh inspection of the petitioner's premises, after issuing notice to the petitioner as well as to the Cosmopolitan Club, within a period of two weeks from the date of receipt of a copy of this order, in the presence of the petitioner and the representative of the Cosmopolitan Club. After the inspection is over, it is open to the respondents Corporation to proceed with the matter, in accordance with law.

9. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions is closed.

Sd/-

Assistant Registrar

Dated:9.3.15

True Copy

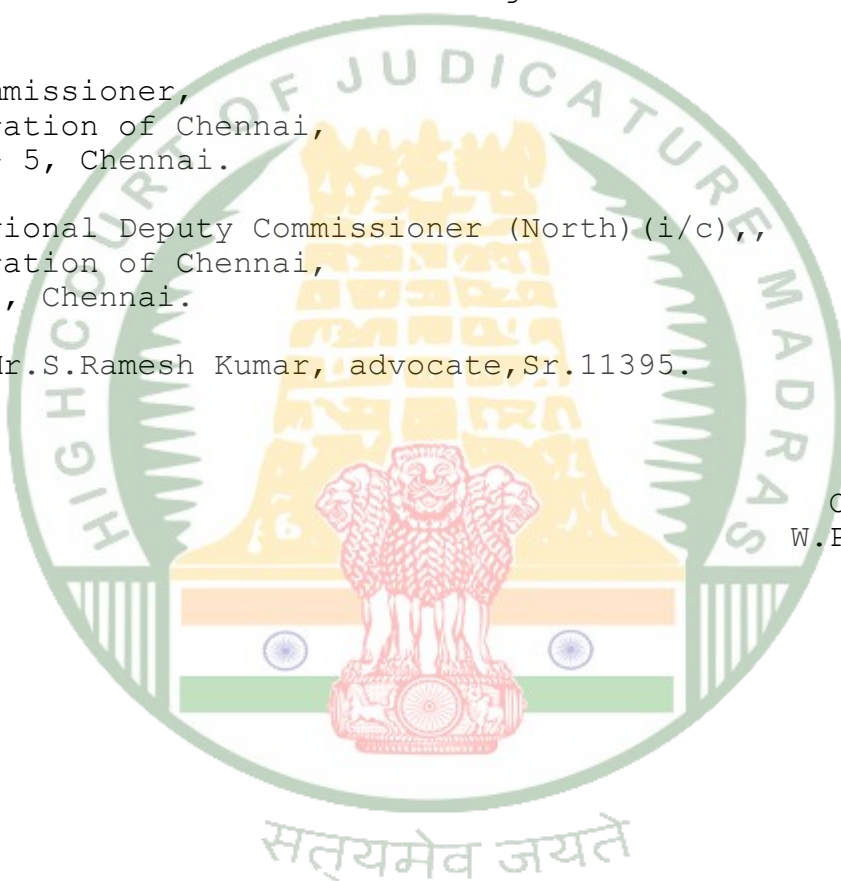
Sub Assistant Registrar

To

1. The Commissioner,
Corporation of Chennai,
Zone - 5, Chennai.
2. The Regional Deputy Commissioner (North) (i/c),
Corporation of Chennai,
Zone-5, Chennai.

+1 cc to Mr.S.Ramesh Kumar, advocate,Sr.11395.

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ORDER IN
W.P.NO.5375 OF 2015

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