

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 06.03.2015

CORAM:

THE HONOURABLE MR. JUSTICE SATISH K. AGNIHOTRI
AND
THE HONOURABLE MR. JUSTICE M. VENUGOPAL

W.P. No. 6112 of 2015
and
M.P.No.1 of 2015

Mrs. Joy Nesamani

... Petitioner

Vs.

1. The Chennai Metropolitan Development Authority,
Rep. by its Member Secretary ,
Thazhamuthu Natarajan Maligai,
Egmore, Chennai-600008.
2. The Corporation of Chennai
Rep. by its Commissioner,
Rippon Building,
Chennai-600003.
3. K.Pushparajan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus directing the 1st respondent herein to initiate proceedings for the demolition of the 3rd floor constructed unauthorisedly in "Rajapushpa" Apartments situated in Flat No.26, comprised in S.Nos. 186, 187 , 190/1 & 2 and 191 Lambert Nagar, 2nd Cross Street, Virugambakkam Village, Guindy Taluk, Chennai District, in exercise of its power under section 56 (2) of the Tamil Nadu Town and Country Planning Act, 1971 on the basis of the petitioner's representation dated 05.12.2014 submitted to the 1st respondent.

For petitioner : Mr. G. Rajan
For Mr.K.Pasupathy

For respondents : Mr. J. Raja Srinivas - R1
Mr. G. Anantharangan - R2

ORDER

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

This writ petition is filed seeking a writ of mandamus directing the 1st respondent herein to initiate proceedings for the demolition of the 3rd floor constructed unauthorisedly in "Rajapushpa" Apartments situated in Flat No.26, comprised in S.Nos. 186, 187, 190/1 & 2 and 191 Lambert Nagar, 2nd Cross Street, Virugambakkam Village, Guindy Taluk, Chennai District, in exercise of its power under Section 56(2) of the Tamil Nadu Town and Country Planning Act, 1971, on the basis of the petitioner's representation dated 05.12.2014, submitted to the 1st respondent.

2. Mr. J. Raja Srinivas, learned Standing Counsel, takes notice for the first respondent and Mr. G. Anantharangan, learned Standing Counsel, takes notice for the second respondent. It is not necessary to issue notice to the third respondent, inasmuch as no decision can be taken without affording an opportunity of hearing to him. Thus, we are passing this order at the admission stage itself, without issuing notice to the third respondent.

3. Learned counsel appearing for the petitioner submits that the petitioner has made a representation earlier, pointing out the illegal construction of third floor by the third respondent, without any approval from the authorities concerned.

4. On a perusal of the petitioner's representation, we find that the representation is dated 05.12.2014 and it is addressed to the second respondent, viz., the Commissioner, Chennai Corporation, which was acknowledged on 11.11.2014. In that perspective, it seems that there is a possibility that either the aforesaid representation has not at all been made by the petitioner, as acknowledgement in respect of some other communication has been filed in this petition.

5. Hence, without going into the aforesaid aspect, we grant liberty to the petitioner to make a fresh representation to the authorities concerned within a period of one week. If such

representation is made, the authorities concerned are directed to consider the same in accordance with law and on its own merits and take consequential action, after affording opportunity of hearing to all the parties concerned. The entire exercise shall be completed within a period of six weeks from the date of receipt of such representation, if any, by the petitioner.

6. The writ petition is disposed of accordingly. Consequently, connected miscellaneous petition is closed No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

RA

To

1. The Member Secretary ,
Chennai Metropolitan
Development Authority,
Thazhamuthu Natarajan Maligai,
Egmore, Chennai-600008.
2. The Commissioner,
Corporation of Chennai
Rippon Building,
Chennai-600003.

+1cc to Mr.K.Pasupathy Advocate, S.R.No.12756
+1cc to Mr.K.Raja Srinivas, Advocate, S.R.No.13097
+1cc to Mr.G.Anantharangan, Advocate, S.R.No.12549

W.P. No.6112 of 2015

GR(CO)
CA(18/03/2015)

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