

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.P.No.7693 of 2015
and
M.P.No.1 of 2015

Hayath Basha

...Petitioner

Vs.

1. The State of Tamilnadu,
rep.by it's Secretary,
Housing and Urban Development
Department, Secretariat,
Fort St.George,
Chennai - 600 009.
2. The Member Secretary,
Chennai Metropolitan
Development Authority (CMDA),
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008,
3. The Commissioner,
Corporation of Chennai,
Ripon Building,
Chennai - 600 003,
4. The Commissioner,
Alandur Municipality,
Alandur,
Chennai - 600 016,
5. M/s.VAK Engineering Pvt.Ltd.,
rep.by it's Director Mr.Ravee Raman Malhotra,
326/471, M.K.N.Road, Alandur,
Chennai - 600 016.

6. M/s.Appasamy Real Estates Ltd.,
rep.by it's Managing Director
Mr.Ravi Appasamy,
No.3, Mangesh Street,
T.Nagar, Chennai - 600 017.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking for the relief of issuance of writ of mandamus to direct the second respondent to inspect the property bearing T.S.No.105 of Adambakkam village and initiate enforcement action as per law particularly under Town and Country Planning Act and demolish the unauthorised, illegal construction put up in T.S.No.105 of Adambakkam village by 5th and 6th respondent.

For Petitioner : Mr.P.Thiagarajan

For Respondents : Mr.N.Sakthivel,
Govt.Advocate for R.1

Mr.K.Rajasrinivas for R.2

Mr.G.Anantharangan for RR.3 and 4

Mr.Rahul Balaji
for Mr.Satish Parasaran for R.6

ORDER

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

The petitioner has come to this Court seeking a limited relief of a direction to the 2nd respondent to inspect the property bearing T.S.No.105 of Adambakkam village and initiate enforcement action under Town and Country Planning Act and demolish the unauthorised illegal construction put up in T.S.No.105 of Adambakkam village by 5th and 6th respondent.

2. Heard the learned counsel appearing for the petitioner as well as the respondents and perused the pleadings and the documents appended thereto.

3. On consideration of the submissions made across the bar by the learned counsel for the petitioner, this Court while issuing notice to the official respondents on 18.3.2015, has observed as

under:

'It is stated by the learned Counsel for the petitioner that despite a representation dated 5.1.2015, made to the second respondent - the Member Secretary, CMDA, to stop the illegal construction made without proper permission at No.326/471 M.K.N. Road, Alandur, Chennai 600 016, Paimas No.859, 860, RS No.24/2, T.S.No.105, no action has been taken and the construction is still going on at full speed.

Mr.N.Sakthivel, learned Government Advocate, accepts notice for the first respondent. Mr.K.Raja Srinivas, learned Standing Counsel, accepts notice for the second respondent. Mr.G.Anantharangan, learned Standing Counsel, accepts notice for the respondents 3 and 4. The third respondent - Chennai Corporation is granted one week time to seek instructions and take necessary steps in this respect and also file an affidavit. Call on 26.3.2015.

4. The 4th respondent, in response to the notice, has filed counter affidavit stating as under:

'3. I respectfully submit that in this connection the owner/promoter has replied that they have applied the plan for group housing consisting of 4 Blocks. viz., Construction of group development of 4 blocks - Residential development with 170 dwelling units of multi storied building with C.M.D.A and the same was accorded approval by the Government of Tamil Nadu Vide Housing and Urban Development Letter (Ms) No.23, dated 03.02.2014 and CMDA C/PP/MSB/14 (A+OL)/2015 dated: 18.03.2015 in the name of Thiru.T.V.Sathya Narayana Power of Attorney for M/s.VAK Engineering Private

Limited. The Planning Permission Approval file was received by the Corporation of Chennai on 23.03.2015. The file is under process for sanctions of for Building permit approval by the Corporation of Chennai....'

5. On consideration of the respective pleadings and also on hearing the learned counsel for parties, it is evident that the relevant planning approval for the alleged unauthorised construction has been granted and the same has been placed before the Corporation

of Chennai and as such, at this stage, no further adjudication is required.

6. In the light of the aforesaid development during the pendency of this petition, we dismiss the writ petition accordingly. However, we reserve liberty to the petitioner to take recourse to appropriate forum in an appropriate event and question the legality as well as other aspects, if so advised and permissible under provisions of law. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Housing and Urban Development
Department, Secretariat,
State of Tamilnadu,
Fort St.George,
Chennai - 600 009.

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

3. The Commissioner,
Corporation of Chennai,
Ripon Building,
Chennai - 600 003,

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4. The Commissioner,
Alandur Municipality,
Alandur,
Chennai - 600 016.

1 CC to Mr.P.Thiagarajan, Advocate SR.No. 19912

1 CC to the Government Pleader, SR.No. 19405

1 CC to Mr.G.Anantharangan, Advocate SR.No. 19291

1 CC to Mr.K.Rajasrinivas, Advocate SR.No. 19331

1 CC to Mr.Satish Parasaran, Advocate SR.No. 19284

W.P. No.7693 of 2015

KU (CO)
PSI (27.04.2015)



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