

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2015

CORAM

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE M.M.SUNDRESH

W.P.No.22856 of 2013

B.Kesavan ... Petitioner

-vs-

1. The Commissioner,
Corporation of Chennai,
Ripon Buildings,
E.V.R. Periyar Road, Chennai.

2. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Chennai.

3. N.Parthiban

4. N.Lakshmipriya ... Respondents

Petition under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct respondents 1 and 2 to take appropriate and necessary steps to demolish the illegal and unauthorised construction made in Old No.32, New No.10, Chinnappa Street, Triplicane, Chennai-600 005, by the 3rd and 4th respondents.

For Petitioner : Mr.V.Raghavachari
for Mr.R.Jayaprakash

For Respondents : Mr.G.Anantharangan for R-1
: Mr.Raja Srinivas for R-2
: Mr.R.Thirugnanam for RR3 & 4

O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner has filed the present writ petition alleging inaction on part of first two respondent authorities in taking necessary steps to demolish what is alleged to be illegal and unauthorised construction made by 3rd and 4th private respondents in premises Old No.32, New No.10, Chinnappa Street, Triplicane, Chennai 600005.

2.The petitioner claims to be a resident of the area and seeks to file the petition as a Public Interest Litigation. As per information obtained under the Right to Information Act, the permission is stated to have been granted only upto the first floor, while the second and third floors had been constructed unauthorisedly.

3.In the counter-affidavit filed by private respondents 3 and 4, a personal vengeance is alleged against the petitioner allegedly on account of the fact that the mother of the deponent refused to accept the request made by the petitioner to give evidence in favour of a third party in a suit. It is conceded that as per an agreement with the builder, the property was re-constructed and portions have been sold, while the other portions retained. The other owners of the flats have not been impleaded.

4.Learned counsel for the petitioner, on the other hand, refutes this allegation on the basis of rejoinder and submits that the fact remains that there is an unauthorised construction and even the lapse of time between the construction and the petitioner approaching the Court (i.e. about 6 years) should not deter this Court from passing appropriate orders nor the fact that there are possibly more unauthorised constructions than authorised constructions dotting Chennai today.

5.We have given a thought to the matter. There is no doubt that there can be no sanctity to any unauthorised construction. It is, however, for the respondent authorities to take action to the extent the unauthorised construction is found, if there is no compounding permitted and no interdicts of any Court or judicial forum. In this process, the petitioner also opens himself to a scrutiny whether his construction is authorised or not.

6.No directions can be passed in this petition for the reason that all the affected parties are not before the Court, 3rd and 4th respondents having sold their portions to third party and the builder doing likewise. As to whether there is a personal animus or not, it is difficult to appreciate in the given limited controversy of the case, but certainly the 3rd and 4th respondents appear to have been

given a special attention by the petitioner possibly because, as contended by the learned counsel for the petitioner, the premises is in the vicinity of his residence. Suffice to say that law needs to be followed for all concerned.

7.Writ Petition, accordingly, stands disposed of in terms aforesaid.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

sra

To

1. The Commissioner,
Corporation of Chennai,
Ripon Buildings,
E.V.R. Periyar Road, Chennai.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Chennai.

+1cc to Mr.R.Thirugnanam, Advocate, S.R.No.8656
+1cc to Mr.G.Anantharangan, Advocate, S.R.No.8650
+1cc to Mr.Raja Srinivas, Advocate, S.R.No.8623

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