

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2016

C O R A M

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.10027 of 2016
&
WMP No. 8983 of 2016

K.Nalliappan
Proprietor, Vijaya Constructions ... Petitioner

Vs

1. The Commissioner
Corporation of Chennai
Rippon Building, Chennai.
2. The Zonal Officer
Zone VIII, Corporation of Chennai
12B, Pulla Avenue, Chennai-600 030. ... RESPONDENTS

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in Z.O.VIII C.No. /2016 dated 3.3.2016 and quash the same and consequently directing the Respondents to remove the platforms at the three access points in front of Plots Nos.5165, 5166 and 5167, Anna Nagar, Chennai-600 040, to the extent of 20 feet each abutting New Avadi Road.

For Petitioner : Mr.R.Muthukumaraswamy
Senior Counsel
for Mr.A.Jenasenan

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

O R D E R

Heard Mr.R.Muthukumaraswamy, learned Senior Counsel for the petitioner instructed by Mr.A.Jenasenan, learned counsel for the petitioner and Mr.P.V.Selvakumar, learned Standing Counsel accepting notice for the respondents and with the consent of the learned counsel appearing on either side, the writ petition is taken up for final disposal.

2.It is unfortunate that the second respondent who has passed the impugned order has not been able to understand the scope of the directions issued by this Court in the earlier Writ Petitioner in W.P.No.2841 of 2006. In the impugned order, the second respondent has quoted only four lines from the direction issued in the earlier Writ Petition, praying for issuance of a writ of mandamus to direct the respondents to remove the Platform at three access points in front of Plot Nos. 5165, 5166 and 5167, Anna Nagar, Chennai 600 040 to the extent of 20 feet each abutting New Avadi Road. This Court after hearing the parties, disposed of the Writ Petition on the following lines:

"3.In the light of the above, there will be a direction to the second respondent to consider the petitioner's representation dated 28.12.2015 and examine the feasibility of providing slopes on the northern side atleast two or three places, so as to enable the New Avadi Road. The second respondent shall also cause an inspection of the area in the presence of the petitioner so as to work out a proper solution. This Court can take a judicial notice of the fact that several places in the City where platforms have been constructed to a height of 1 1/2 feet, the Corporation has provided slopping access to those properties and it is not known as to why such provision cannot be provided to the petitioner's property. The above direction shall be complied with within a period of two weeks from the date of receipt of a copy of this order. "

3.In terms of the above direction, the second respondent has to consider the petitioner's representation dated 28.12.2015 and examine the feasibility of providing slopes on the northern side at least 2 or 3 places so as to enable the vehicles coming to the petitioner property to have access to the New Avadi Road. There was a further direction to the second respondent to cause an inspection of the area in the presence of the petitioner, so as to work out a proper solution. The second respondent has not only misquoted the directions issued by this Court, but has also misunderstood the scope of the direction. Furthermore, the petitioner would state that no inspection was conducted as directed, in the presence of the petitioner.

4.The purpose for which this Court issued the direction was to work out proper solution and examine the feasibility of providing slopes on the northern side at least in 2 or 3 places. The respondents have not disputed the fact that the Marriage

Hall has been functioning for over fifteen years and all these years, on the northern side of the property, the petitioner themselves have provided a slope to enable the vehicles coming to the petitioner's property to have access to the New Avadi Road.

5. In such circumstances, the Corporation should adopt a pragmatic approach and address the problem. In the light of the fact that the second respondent has not only misquoted and misinterpreted the order issued in earlier Writ Petition, this Court is of the view that the matter has to be looked into by an Officer at a higher level.

6. Accordingly, the Writ Petition is allowed, the impugned order is quashed and the matter is directed to be looked into by the Regional Deputy Commissioner (Central), Corporation of Chennai, who shall scrupulously follow the directions issued in the earlier Writ Petition, referred supra, and after causing inspection of the area in the presence of the petitioner. The above direction shall be complied with by the Regional Deputy Commissioner (Central), Corporation of Chennai, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

[Since the Regional Deputy Commissioner (Central), Corporation of Chennai, is not a party to this Writ Petition, Registry is directed to communicate the copy of this order to the said authority also.]

Sd/-
Assistant Registrar (CS IV)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

rpa

To

1. The Commissioner
Corporation of Chennai
Rippon Building, Chennai.
2. The Zonal Officer
Zone VIII, Corporation of Chennai
12B, Pulla Avenue,
Chennai-600 030.

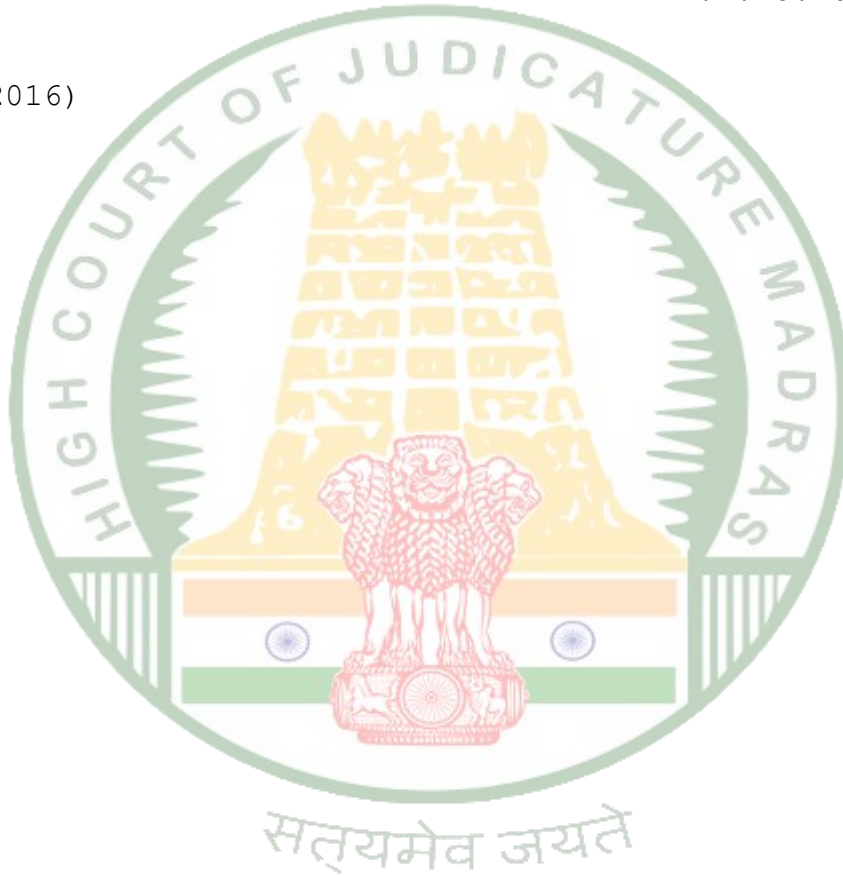
Copy To

The Regional Deputy Commissioner(Central),
Corporation of Chennai,
Chennai.

+3cc's to Mr.A.Jenasenan, Advocate, S.R.Nos.17496 & 17039
+1cc to Mr.P.V.Selvakumar, Advocate, S.R.No.17546

W.P.No.10027 of 2016

UG(CO)
CA(23/03/2016)



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