

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 1.4.2016

CORAM:

THE HONOURABLE MR.JUSTICE SATISH K.AGNIHOTRI

AND

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.P. No.5429 of 2014, Review Appl. No.27 of 2014

and Contempt Petition 979 of 2015

W.P.No.5429 of 2014

D.ELUMALAI

... petitioner

versus

1 THE COMMISSIONER/ PRINCIPAL
SECRETARY CORPORATION OF CHENNAI RIPPON
BUILDING CHENNAI.

2 THE ASSISTANT COMMISSIONER/
ZONAL OFFICER ZONE-7 AMBATTUR CHENNAI

3 THE EXECUTIVE ENGINEER
CORPORATION OF CHENNAI ZONE-7 AMBATTUR
CHENNAI

4 THE ASSISTANT EXECUTIVE
ENGINEER CORPORATION OF CHENNAI ZONE-7
DIVISION-84 AMBATTUR CHENNAI

5 R.UMASH ... respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus to direct the respondents 1 to 4 consider the petitioner representation dated 9.1.2014 after giving the proper and necessary opportunity to the petitioner.

Review Application No.27 of 2014

D.Elumalai

... petitioner

versus

1.R.Umesh

2. The Commissioner
Corporation of Chennai

3 The Executive Engineer,
Corporation of Chennai
Zone-7, Ambattur, Chennai ... respondents

Application filed to review the order dated 28.1.2014 in
W.P.No.35013 of 2013.

WP.No.35013 of 2013:Writ Petition filed Under Article 226 of the
Constitution of India to issue a Writ of Mandamus directing the
Respondents 1 and 2 to initiate forthwith further legal action
against the unauthorised construction at Door No.572 TNHB 18th
street Korattur Chennai-80 by the third Respondent under the
provision of Section 83 and 84 of the Tamil Nadu Town and
Country Planning Act 1971 pursuant to the Notice No.JE.
84/32/2013 dated 29.10.2013.

Contempt Petition No.979 of 2015

R.Umesh

... petitioner

versus

1.Vikram Kapoor, I.A.S.,
Commissioner,
Corporation of Chennai,
Chennai 600 007.

2.Mr.S.Baskaran Executive
Engineer Corporation of Chennai
Zone Office-VII Ambattur Chennai

3.D.Elumalai
Door No.572 TNHB 18th Street,
Korattur Chennai-600 080

Petition filed to punish the respondents for disobedience of the order of this Court dated 28.1.2014 in W.P.No.35013 of 2013.

Appearance :-

Mr.L.Chandrakumar,
for Mr.A.Rajendrakumar :: for petitioner in W.P.No.5429 of 2014,
for petitioner in Review Appl. No.27 of 2014

Mr.R.Dhanasekar :: for petitioner in Cont.P.No.979 of 2015

Mr.V..C.Selvasekaran :: for respondents 1 to 4 in
W.P.No.5429 of 2014
for respondents 1 and 2 in Cont.P.No.979/2015
for respondents 2 and 3 in Rev.A.No.27 of
2014

COMMON ORDER

(made by K.K.SASIDHARAN, J.)

The contempt petition is filed by the petitioner in W.P.No.35013 of 2013, alleging disobedience of the order passed by this Court dated 28 January 2014 in W.P.No.35013 of 2013, directing the respondents to take action under the provisions of the Tamil Nadu Town and Country Planning Act.

2. The review petition is at the instance of the third respondent in W.P.No.35013 of 2013 and the prayer is to review the order dated 28 January 2014 in W.P.No.35013 of 2013.

3. The Writ Petition in W.P.No.5429 of 2014 is at the instance of the petitioner in Review Petition No.27 of 2014 and the prayer is to direct the Commissioner, Corporation of Chennai and his subordinates to consider and dispose of his representation dated 9 January 2014.

4. The petitioner in Cont.P.No.979 of 2015 filed a Writ Petition in W.P.No.35013 of 2013 to issue a Writ of Mandamus directing the Corporation of Chennai to initiate action against the petitioner in Review Application No.27 of 2014 for unauthorized construction under the provisions of Sections 83 and 84 of the Tamil Nadu Town and Country Planning Act, 1971.

5. The petitioner alleged that the third respondent in the said Writ Petition, who is the petitioner in W.P.No.5429/2014 as well as the applicant in Review Application No.27 of 2014

constructed a building without planning permission. The Chennai Corporation in spite of inspecting the site, failed to take follow up action and the same resulted in filing the petition. The Writ Petition was disposed of with a direction to the Chennai Corporation to take follow up action. The petitioner has come up with the contempt petition alleging that Chennai Corporation has not taken any action in spite of the direction given by this Court.

6. Thereafter, third respondent in W.P.No.35013 of 2013 filed a review application in R.A.No.21 of 2014 to review the order on the ground that he is armed with a sanctioned plan and the same was not considered by this Court while passing an order in W.P.No.35013 of 2013. The third respondent in W.P.No.35013 of 2013 has filed a fresh Writ Petition in W.P.No.5429 of 2014 to direct the Corporation of Chennai to consider his representation.

7. The petitioner in contempt petition has come up with a grievance that respondents have not taken any action against the illegal construction made by the petitioner in W.P.No.5429 of 2014. This Court after perusing the status report filed by the Chennai Corporation, directed the local authority to take action. The petitioner in W.P.No.5429 of 2014 has come up with a contention that he has already given a representation along with a copy of the approved plan and as such, he should be heard before taking further action in the matter.

8. After hearing the counsel on either side, we are of the view that interest of justice would be sub-served by directing the Commissioner, Corporation of Chennai to consider the entire matter afresh, with notice to the petitioner in contempt petition Cont.P.No.979 of 2015 and Writ Petitioner in W.P.No.5429 of 2014.

9. The Commissioner, Corporation of Chennai is directed to consider the representation dated 9 April 2014 submitted by the petitioner in W.P.No.5429/2014, and dispose of the same on merits and as per law.

10. The representation shall be disposed of as expeditiously as possible and in any case within a period of twelve weeks from the date of receipt of a copy of this order. In case it is made out that the petitioner in W.P.No.5429 of 2014 has put up a building without planning permission, necessary follow up action shall be taken by the Commissioner, Corporation of Chennai, in accordance with law.

11. The contempt petition, review petition and the Writ

Petitions are disposed of with the above direction. No costs.
M.P.No.1/2014 is closed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

- 1 THE COMMISSIONER/ PRINCIPAL
SECRETARY CORPORATION OF CHENNAI RIPPON
BUILDING CHENNAI.
- 2 THE ASSISTANT COMMISSIONER/
ZONAL OFFICER ZONE-7 AMBATTUR CHENNAI
- 3 THE EXECUTIVE ENGINEER
CORPORATION OF CHENNAI ZONE-7 AMBATTUR
CHENNAI
- 4 THE ASSISTANT EXECUTIVE
ENGINEER CORPORATION OF CHENNAI ZONE-7
DIVISION-84 AMBATTUR CHENNAI

+1 cc to Mr.L.Chandrakumar Advocate sr.20677

W.P. No.5429 of 2014
Review Appl.No. 27 of 2014
and Cont.P.No.979 of 2015

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