

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI

and

THE HON'BLE DR. JUSTICE P. DEVADASS

W.P. No.1297 of 2016

Baid Mehta Complex Residents Welfare Association
represented by its Secretary
K. Udayakumar, No.16, Mount Road
Little Mount
Saidapet, Chennai 600 015

Petitioner

Vs.

The Chennai Metropolitan Development Authority
represented by its Member Secretary
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008

Respondent

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the respondent to remove the entire encroachments and deviation, as notified by the respondent in his letter no.EC2/18274/1995 dated 27.08.2015 at Baid Metha Complex, New No.16, Old No.183, Mount Road, Little Mount, Chennai 600 015, in accordance with law, within a stipulated time, as prescribed by this Court.

For petitioner Mr. Ma.P. Thangavel

For respondent Mr. N. Sampath, Standing Counsel

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. N. Sampath, learned Standing Counsel, accepts notice for the respondent. With the consent of the learned counsel for the parties, the writ petition is taken up for final disposal, at the admission stage itself.

2 This writ petition is filed seeking a writ of mandamus directing the respondent to remove the entire encroachments and deviation, as notified by the respondent in his letter no.EC2/18274/1995 dated 27.08.2015 at Baid Metha Complex, New No.16, Old No.183, Mount Road, Little Mount, Chennai 600 015, in accordance with law, within a stipulated time.

3 On an earlier round of writ petition, viz., W.P. No.14395 of 2015, preferred by C.L. Baid Mehta Trust, in respect of the very same property, a Division Bench of this Court, wherein, one of us (Satish K. Agnihotri, J.) was a Member, disposed of the said writ petition on 09 June 2015 in the following terms:

"4 Accordingly, we dispose of the writ petition permitting the petitioner to take necessary steps for making good the defects in the structure. If deviations are not rectified and also illegal structures are not removed within the time, as aforesaid, the authorities are competent to take steps immediately to seal and lock the premises and thereafter, take consequential action as required under the provisions of law. Costs made easy. Connected Miscellaneous Petition is closed."

4 The learned counsel for the petitioner submits that the time given to remove the unauthorised portion had come to an end long back and till date, no step has been taken by the respondent, as directed by this Court, to lock and seal the premises, in the event of failure on the part of the petitioner therein. Hence, the instant writ petition seeking the aforesaid relief.

5 The learned Standing Counsel appearing for the respondent submits that this writ petition is not maintainable and if at all, only a contempt petition may be filed.

Accordingly, we dispose of the writ petition reserving liberty to the petitioner to file an appropriate application, if so advised. Costs made easy.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

cad

To

The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008

1 cc to Mr.Ma.P. Thangavel, Advocate, Sr. 2542
1 cc to Mr.N. Sampath, Advocate, Sr. 2584

W.P. No.1297 of 2016

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