

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition No.13092 of 2016

S.Natarajan

...Petitioner

Vs.

- 1.The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road, Egmore,
Chennai - 600 008.
- 2.The Chief Planner,
Regularization Unit,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road, Egmore,
Chennai - 600 008.
- 3.The Commissioner,
Corporation of Chennai,
Rippon Buildings, Chennai - 600 003.
- 4.The Managing Director,
Chennai Metropolitan Water Supply and Sewerage Board,
No.1, Pumping Station Road, Chindatripet,
Chennai - 600 002.
- 5.The Member Secretary,
Tamil Nadu Pollution Control Board,
76, Mount Salai, Guindy, Chennai - 600 032.

6.S.Ayyasamy

..Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent to consider the representation of the petitioner dated 10.09.2011 and 20.04.2015 and take action to demolish the illegal constructed made by the 6th respondent in Mahalakshmi Avenue, Door NO.19, T.M.Maisty Street, Chennai - 600 041 restoring the building to the original plan sanctioned.

For Petitioner : Mr.A.Thiyagarajan
Senior Counsel
for Mr.S.Ramesh Kumar

For Respondents

R1 & R2 : Mr.C.Johnson
R3 : Mr.R.Arunmozhi
R6 : Mr.L.Damodaran
R4 & R5 : No appearance

O R D E R

(Order of the Court was made by HULUVADI G. RAMESH,J.)

This writ petition is filed praying to issue a writ of Mandamus, directing the first respondent to consider the representation of the petitioner dated 10.09.2011 and 20.04.2015 and take action to demolish the illegal constructed made by the 6th respondent in Mahalakshmi Avenue, Door NO.19, T.M.Maistry Street, Chennai - 600 041 restoring the building to the original plan sanctioned.

2.Heard the learned counsel appearing for the petitioner, the learned counsel for the respondents 1 & 2, the learned counsel for the 3rd respondent and the learned counsel for the 6th respondent.

3.In the accompanying affidavit of the writ petition, it is averred that the petitioner is in peaceful possession and enjoyment of the property situated at 2/20, Mahalakshmi Avenue, T.M.Maistry Street, Chennai - 600 041. The 6th respondent, who is the neighbour of the petitioner, has put up illegal structures violating the order of the sanctioned plan and built his building unauthorizedly and he has also wrongfully drawn sewer cum waste sum vent pipe system for disposal of sewerage and waste water and diverted it to the area near the kitchen of the petitioner. Therefore, the petitioner approached the first respondent and submitted a representation on 10.09.2011 and 20.04.2015 respectively with regard to the unauthorized construction made by the second respondent. But the same has not been considered till date. Hence, the present writ petition has been filed.

4.The learned counsel for the respondents 1 and 2 filed a counter stating that the petitioner has already filed a civil suit in this regard before this Court in C.S.No.811 of 2000, which was transferred to the II Additional City Civil Court, Chennai and re-numbered as O.S.No.6878 of 2013 and the same is still pending.

5.In the above circumstances, this Court is of the view that even though the petitioner has given a representation to the first respondent alleging the illegal construction being carried out by the second respondent, as this being a matter of fact finding, it is not possible to maintain the writ petition. Moreover, already the matter is under consideration before the Civil Court. Therefore, it is for the petitioner to seek remedy in the suit filed by him in O.S.No.6878 of 2013 on the file of the II Additional City Civil Court, Chennai.

6.The Writ Petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

cse

To

- 1.The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road, Egmore,
Chennai - 600 008.
 - 2.The Chief Planner, Regularization Unit,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road, Egmore,
Chennai - 600 008.
 - 3.The Commissioner, Corporation of Chennai,
Rippon Buildings, Chennai - 600 003.
 - 4.The Managing Director,
Chennai Metropolitan Water Supply and Sewerage Board,
No.1, Pumping Station Road, Chindatripet,
Chennai - 600 002.
 - 5.The Member Secretary,
Tamil Nadu Pollution Control Board,
76, Mount Salai, Guindy, Chennai - 600 032.
- 1 cc to M/s.S.Rameshkumar, Advocate, sr.31441
1 cc to M/s.C.Johnson, Advocate, sr.31789
1 cc to M/s.R.Arunmozhi, Advocate, sr.31332
1 cc to M/s.L.Dhamodaran, Advocate, sr.31375

W.P.No.13092 of 2016

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