

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2016

CORAM :

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

The Hon'ble MR.JUSTICE R.MAHADEVAN
W.P.No.14384 of 2016

B.Mohamed Hussain Alikhan .. Petitioner

-vs-

- 1.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Nadarajan Building,
Egmore, Chennai-600 008.
- 2.The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai-600 003.
- 3.The Chairman & Managing Director,
Chennai Metro Water and Sewerage Board,
CMWSSB,
Mount Road, Chennai-600 002.
- 4.The Assistant Engineer,
(Constructions)
Corporation of Chennai,
Zone V, Division 55,
28, Shanmugam Street,
Chennai-600 001.
- 5.The Assistant Engineer (Depot),
Chennai Metro Water Supply and
Sewerage Board (CMWSSB),
Division 55, Seven Well Street,
Chennai-600 001.

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6.The Assistant Engineer,
TANGEDCO,
Division 55,
Malayappan Street,
Chennai-600 001.

7.C.Naresh

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the first respondent to take suitable action against the seventh respondent for illegal acts done by him and initiate proceedings against the seventh respondent for disobeying this Hon'ble Court orders in W.P.No.14393 of 2015 dated 13.5.2015.

For Petitioner : Mr.S.S.Vasudevan
For Respondents : Mr.C.Johnson for R1
Mr.K.Soundararajan for R2 to R4
Mr.AR.L.Sundaresan
Senior Counsel
for M/s.A.G.Rajan

ORDER

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

Despite opportunity given to respondent No.7 on 30.09.2016, respondent No.7 has failed to comply fully and only some part of the unauthorised construction was removed, as found by the officers of the CMDA/respondent No.1 on an inspection carried out on 03.11.2016. It is thereafter on 17.11.2016 and 18.11.2016 that the CMDA Enforcement Cell took action to demolish the ground floor structures of two dwelling units, so as to convert the ground floor into stilt floor car parking area. As far as the third floor is concerned, it is stated that the same is dismantled and photographs have been taken during demolition.

2. On a perusal of the photographs, we do not find the latter aspect to be fully correct, as what has been done to the third floor is an endeavour to make it non-usable and not that the complete area has been dismantled.

3. The learned counsel appearing for respondent No.7 states that every brick, which is unauthorised, shall be removed.

4. We take the aforesaid statement on record, making it clear that no portion of the building, including the authorised

portion shall be occupied till every brick of unauthorised construction is removed and a completion certificate obtained.

5. In so far as the monies expended by the first respondent for removal of the unauthorised structure is concerned, respondent No.7 is directed to pay that amount, as public money should not be expended for the benefit of people who carry out the illegalities. The amount be remitted within fifteen days of the basis so being communicated to respondent No.7 and the completion certificate will only be issued after the unauthorised constructions are cleared and the amount paid.

6. In paragraph 4 of our order dated 30.09.2016, we have referred to the excuse given by respondent No.7 and found that the same is clearly an after thought and there is an element of overreaching the Court. However, in view of the directions passed aforesaid, and subject to their compliances and further deposit of costs by respondent No.7 of Rs.10,000/- (Rupees Ten Thousand) with the Mediation and Conciliation Centre, Madras High Court Campus within one week, we desist from initiating proceedings of contempt, making it clear that the same would be the consequence for any non-compliance now.

7. No further directions are required and the writ petition is disposed of. No costs.

8. List for compliance on 03.02.2017.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

To

- 1.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Nadarajan Building,
Egmore, Chennai-600 008.
- 2.The Commissioner,
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- 3.The Chairman & Managing Director,
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Chennai-600 001.
- 6.The Assistant Engineer,
TANGEDCO,
Division 55,
Malayappan Street,
Chennai-600 001.

7 Copy to
The Secretary
Mediation and Conciliation Centre
High Court, Compus Madras

8 The Section Officer Writ Section High Court Madras

+1cc to Mr.A.G. Rajan, Advocate, S.R.No.16042
+1cc to the Government Pleader, S.R.No.67703

mg(CO)
md(29/11/2016)

W.P.No.14384 of 2016

सत्यमेव जयते

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