

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.15737 of 2016

1.A.Mohamed Basheer

2.A.B.Viswanath

3.A.Steev Anand

4.Nandakumar

5.Saradha Gopinath

6.D.Srinivas

... Petitioners

Vs.

1. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai.

2. Rani Mohan

3. Padmavathy

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent for causing removal of the illegal construction made by the second respondent as shown in the plan and marked as ABCDEFGHIJ and KLMNOPQ situate at NO.25 & 26, Tank Bund Road, 1st Street, Aiswarya Apartments, Nungambakkam, Chennai - 600 034 to secure compliance with the sanctioned plan issued by the first respondent.

For Petitioners : Mr.S.F.Mohamed Yousuf

For Respondents : Mr.A.Nagarajan
R1 Standing Counsel

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 for causing removal of the illegal construction made by the second respondent as shown in the plan and marked as ABCDEFGHIJ and KLMNOPQ situate at NO.25 & 26, Tank Bund Road, 1st Street, Aiswarya Apartments, Nungambakkam, Chennai - 600 034 to secure compliance with the sanctioned plan issued by the first respondent.

2. Heard the learned counsel appearing for the petitioners and the learned Standing Counsel appearing for the first respondent. Considering the nature of prayer sought for in this writ petition, notice to the second respondent is dispensed with.

3. In the accompanying affidavit of the writ petition, it is averred that the second respondent had encroached the land left open for pathway purposes for all the apartment owners and had put up a platform abutting the walls. Besides that, in contravention of the planning permission, the second respondent opened a door in the wall in the east removing the window originally existed. Therefore, the petitioners by letter dated 07.07.2013 requested the second respondent to demolish the illegal constructions made in the common passages, but it was in vain. Hence, the petitioners submitted a representation dated 05.08.2013 in person to the first respondent to take action with regard to the illegal constructions made by the second respondent. Even though the officials of the first respondent visited the place and directed the second respondent to remove the illegal construction, but the same has not been removed. Hence, the present writ petition has been filed.

4. In the above circumstances, this Court is of the view that even though the petitioners have given a representation to the first respondent with regard to the illegal construction made by the second respondent, however, the same requires enquiry to be conducted for coming to a conclusion as to whether there is any encroachment or whether there is any violation of the building plan or whether the construction being carried out is illegal? As this being a matter of fact finding, the petitioners are directed to approach the Civil Court by making the first respondent, Corporation as party to the proceedings and seek appropriate remedy.

5. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

cse

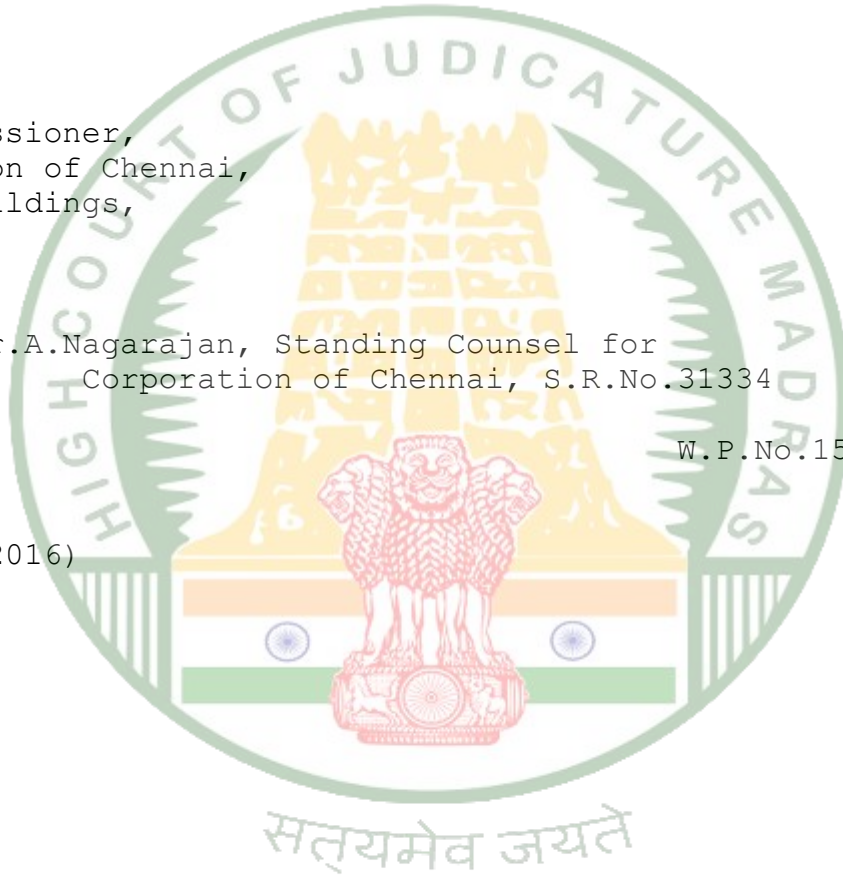
To

The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai.

+1cc to Mr.A.Nagarajan, Standing Counsel for
Corporation of Chennai, S.R.No.31334

W.P.No.15737 of 2016

GJ(CO)
CA(27/06/2016)



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