

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.6.2016

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition No.15787 of 2016

D.Ganesh

... Petitioner

Vs.

1. The Commissioner
Corporation of Chennai
Chennai 600 003.
2. Executive Engineer
Town Planning Enforcement Central Region
Corporation of Chennai, Regional Office
2nd Cross Street, (East) Pulla Avenue
Shenoy Nagar, Chennai 600 030.

3. A.S.Sundaram

... Respondents

Petition under Article 226 of the Constitution of India praying for a writ of Mandamus directing the respondents 1 and 2 to take action against the third respondent for violating the stop work notice and lock and seal and demolition notice and continuing unauthorised construction as per the provision of the Chennai City Municipal Corporation Act, 1919 and Chennai City Corporation Building Rules, 1972.

For Petitioner : Mr.N.S.N.Krishnakumar

For Respondents 1 & 2 : Mr.R.Arunmozhi,
Standing Counsel

For Respondent-3 : Mr.S.Doraisamy

O R D E R

(Made by Huluvadi G.Ramesh, J)

The petitioner has come up with this writ petition seeking a direction to the respondents 1 and 2 to take action against the third respondent for violating the stop work notice and lock and seal and demolition notice and continuing unauthorised

construction as per the provision of the Chennai City Municipal Corporation Act, 1919 and Chennai City Corporation Building Rules, 1972.

2. Heard Mr.N.S.N.Krishnakumar, learned counsel for the petitioner, Mr.R.Arunmozhi, learned counsel for the respondents 1 and 2 and Mr.S.Doraisamy, learned counsel for the third respondent.

3. According to the petitioner, the third respondent has encroached the common pathway, by putting up construction without approval. Therefore, the petitioner reported the same to the Assistant Engineer orally on 08.10.2015 and made a representation to the first respondent on 19.10.2015. Thereafter, he filed W.P.No.34223 of 2015 and the same was disposed of directing the authorities to take action as per law within a period of 30 days. Since no action was taken, the petitioner sent a reminder on 14.11.2015. On 18.11.2015, the second respondent issued stop work notice and also affixed it in the place of construction. However, the third respondent continued with the construction and therefore, the petitioner sent a letter to the second respondent on 22.11.2015 requesting him to take immediate action. On 23.11.2015, the second respondent issued locking and sealing and demolition notice under Sections 56 and 57 of the Town and Country Planning Act. Complaining that even thereafter the third respondent is attempting to proceed with the construction, the petitioner has come up with the above writ petition.

4. The third respondent has filed a counter stating that the total extent of his property is 392 sq.ft. and it falls under the category of economically weaker section of people and therefore, it does not require approval for construction for the purpose of residential use. When the second respondent issued stop work notice on 16.11.2015 and locking, sealing and demolition notice on 23.11.2015, the third respondent made an application under Section 49 of the Tamil Nadu Town and Country Planning Act and also made a representation to the first respondent to withdraw the stop work notice. When the second respondent sealed the premises of the third respondent on 28.4.2016, the third respondent made a representation to the Government for a direction to the second respondent to remove the seal. On 10.5.2016, the Secretary, Housing and Urban Development Department directed the second respondent to raise the seal and accordingly, the second respondent raised the seal on 03.6.2016.

5. In the light of the facts narrated above, it is clear that pursuant to action sought to be initiated by the petitioner against the third respondent for certain violations in the

construction, the third respondent preferred an appeal and the same was allowed in favour of the third respondent. Since no order was passed alleging that the third respondent has constructed in violation of the rules and regulations and that the seal was also raised by the second respondent, we do not find any reason for issuing any direction as prayed for by the petitioner. Accordingly, the writ petition is disposed of. There shall be no order as to costs. Consequently, WMP No.13711 of 2016 is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

kpl

To

1. The Commissioner
Corporation of Chennai
Chennai 600 003.
2. The Executive Engineer
Town Planning Enforcement Central Region
Corporation of Chennai, Regional Office
2nd Cross Street, (East) Pulla Avenue
Shenoy Nagar
Chennai 600 030.

+lcc to Mr.S.Doraisamy, Advocate, S.R.No.35422
+lcc to Mr.R.Arunmozhi, Advocate, S.R.No.35283
+lcc to Mr.N.S.N.Krishnakumar, Advocate, S.R.No.35261

सत्यमेव जयते

W.P.No.15787 of 2016

MP (CO)
CA(20/07/2016)

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