

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K.AGNIHOTRI

and

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

W.P. No.21610 of 2015

and

M.P.No.1 of 2015 and W.M.P. No.13371 of 2016

M.Guruprasad ... Petitioner

Vs.

1.The Commissioner,
Corporation of Chennai,
Ribbon Buildings,
E.V.R. Periyar Road,
Chennai-600 003.

2.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Chennai-600 008.

3.The Correspondent,
St. Antony's Girls Higher Secondary School,
No.28, Madha Church Road,
Mandavelipakkam,
Chennai-600 028.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing respondents 1 and 2 to demolish the unauthorized / illegal construction made by the third respondent at No.28, Madha Church Road, Mandavelipakkam, Chennai-600 028 by considering the petitioner's representation dated 30.05.2015.

For Petitioner : Mr.V.Raghavachari
for Mr.Jayaprakash

For Respondents : Mr.R.Arunmozhi for R-1
Mr.C.Johnson for R-2
Mr.S.Mahimai Raj for R-3

ORDER

(delivered by SATISH K.AGNIHOTRI, J.)

The instant petition is filed by the petitioner, seeking for a direction to respondents 1 and 2 to demolish the unauthorized / illegal construction made by the third respondent at No.28, Madha Church Road, Mandavelipakkam, Chennai-600 028 by considering his representation dated 30.05.2015.

2 It is the case of the petitioner that the third respondent is running a school behind the petitioner's apartment. The third respondent has made unauthorised construction in the school building in violation of the sanctioned plan and no set back area has been left by the third respondent. Though the petitioner has sent a representation dated 30th May, 2015 to the first respondent, no action has been taken.

3 While issuing notice to respondents 1 and 2, a direction was issued to respondents 1 and 2 to inspect the building in question and submit a report after stopping the construction, if it is found illegal. Accordingly, the first respondent issued a locking and sealing and demolition notice dated 27th July, 2015 under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971. Thereafter, the building in question was inspected by the officials of the Corporation of Chennai on 26th February, 2016 pursuant to the directions of this Court dated 25th February, 2016. After the inspection, a de-occupation notice dated 29th February, 2016 was issued. The first respondent, thereafter, sent a communication dated 18th March, 2016 to the third respondent, asking him to remove the deviations. Consequently, this Court directed the Corporation to lock and seal the additional block forthwith and to submit a report and the third respondent was permitted to carry out the alteration for removal of the deviation.

4 Heard the learned counsel for the parties and perused the pleadings and documents appended thereto.

5 The Regional Deputy Commissioner (Central), Corporation of Chennai has filed an additional report dated 15th April, 2016, indicating that the additional block / new block in the third respondent School has been locked and sealed on 31st March, 2016.

6 The learned counsel for the third respondent submits that the third respondent be permitted to continue to use and occupy the toilet constructed for a period of six weeks and thereafter, the third respondent shall demolish the said constructions carried out unauthorisedly.

7 In such view of the matter, this Court is of the considered view that nothing further survives for adjudication in this matter, at this stage. The third respondent is permitted to continue with use and occupation of the toilet constructed unauthorisedly for a period of six weeks from today. Thereafter, the third respondent shall demolish the same. In default, the authorities shall take steps to demolish the said unauthorised construction. The authorities are further directed to take consequential action in accordance with law and on its own merit in respect of other portion, which has been constructed unauthorisedly, as observed herein-above.

8 Resultantly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy// सत्यमेव जयते

Sub Assistant Registrar

To

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1.The Commissioner,
Corporation of Chennai,
Ribbon Buildings,
E.V.R. Periyar Road,
Chennai-600 003.

2.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Chennai-600 008.

+1cc to M/S.R.Arunmozhi, Advocate, S.R.No.25470
+1cc to M/S.S.Mahimai Raj, Advocate, S.R.No.25678
+1cc to M/S.R.Jayaprakash, advocate sr.26075

W.P.No.21610 of 2015

ctk(CO)
srg(28/04/2016)



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