

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2016

CORAM

The HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.No.29428 of 2011

E.Palani ... Petitioner

vs.

1. The Commissioner
Corporation of Chennai
Chennai.

2. The Chennai Metropolitan Development Authority
rep. by its Member Secretary
Chennai - 600 008.

3. S.Koothammal ... Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of Mandamus directing the 1st respondent to initiate appropriate action for the demolition of the unauthorized construction of additional floors (2, 3, 4 Floors) being built by the 3rd respondent in No.33, Muniappa Mudali Street, Korrukkupet, Chennai-600 021.

For Petitioner : Mr.V.Thiyagu

For Respondents : Mr.S.Saravanan
for 1st respondent

Mr.N.Sampath
for 2nd respondent

ORDER

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

The petitioner alleges unauthorized construction of additional three floors by the third respondent in property bearing No.33, Muniappa Mudali Street, Korrukkupet,

Chennai-600 021.

2. The respondents appear to have not taken any steps even during the pendency of the petition. But on the anvil of hearing of the present petition, a de-occupation notice has been issued under Section 56(2) Sub-Clause (iii) and (2A) of Tamil Nadu Town and Country Planning Act, 1971 on 18.11.2016, as averred in the counter affidavit affirmed on 22.11.2016. This is in pursuance of the inspection of site which confirms that three extra floors were constructed and in fact the locking, sealing and demolition notice under Sections 56 and 57 read with Section 85 of the said Act had been issued as far back as 23.8.2011 to the third respondent, after the initial notice calling for plans dated 19.8.2011.

3. On our query as to why no action was taken for the last five years, we are informed that the same was on account of the pendency of the petition. We find the stand completely unsustainable for the reason that the present petition was filed not to restrain action, but to carry out action and under that pretext, the illegalities of 3rd respondent, as detected by the Corporation, have remained unattended.

4. We direct that the proceedings in pursuance of the notices be concluded within a maximum period of two months from today.

The petition, accordingly, stands disposed of. No costs. Consequently, M.P.No.1 of 2011 is closed.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते Sub Assistant Registrar

1. The Member Secretary
The Chennai Metropolitan Development Authority
Chennai - 600 008.
2. The Commissioner
Corporation of Chennai
Chennai.

+1 CC to Mr. M. Stalin, Advocate Sr.No.68871 (10.12.2016)

pk(CO)
md(02/12/2016)

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