

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition No.19173 of 2016

1.E.Muniappan
2.P.Arockia Punitha
3.C.K.Robin
4.K.Rajkumar ...Petitioners

Vs.

1.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003.
2.B.S.Builders,
Rep. by its Proprietor, D.Suriya Christopher Raj,
F-2, II Block, S.S.L. Green Park,
Madanandhapuram,
Chennai - 600 125. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent to take action upon the petitioner's representation dated 16.03.2016, inspect the property situated at New Survey No.77/3A, 1B, Door No.3/1546, Bethel Flats, Mel Colony, Bajanai Koil Street, Madhanandhapuram Village, Chennai - 600 125, demolish the illegally constructed ground floor house portion.

For Petitioners : Mr.A.S.Kailasam

For Respondents

R1 : Mr.V.C.Selvasekaran
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 to take action upon the petitioner's representation dated 16.03.2016, inspect the property situated at New Survey No.77/3A, 1B, Door No.3/1546,

Bethel Flats, Mel Colony, Bajanai Koil Street, Madhanandhapuram Village, Chennai - 600 125, demolish the illegally constructed ground floor house portion.

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 petitioners purchased a flat from the second respondent and they were in absolute possession and enjoyment of the entire extent including the common area. But the second respondent has retained 40 sq.ft. of undivided share out of 1000 sq.ft. of land available and based on the same, started claiming a right to build further upon the existing superstructure. As per the Plan approval and building permission granted by the first respondent, the ground floor is only for the purpose of parking cars and two wheelers and no construction has been permitted on the ground floor by the first respondent. Therefore, the petitioners have given a representation to the first respondent on 16.03.2016 to inspect the property and demolish the illegally constructed ground floor portion. But the said representation has not yet been considered. 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, however, the same requires enquiry to be conducted for coming to a conclusion as to whether the construction being carried out is illegal or whether any right is available to the second respondent to put up the construction. As this being a matter of fact finding, the petitioners are directed to approach the Civil Court by making the respondents 1 and 2 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 (CS V)

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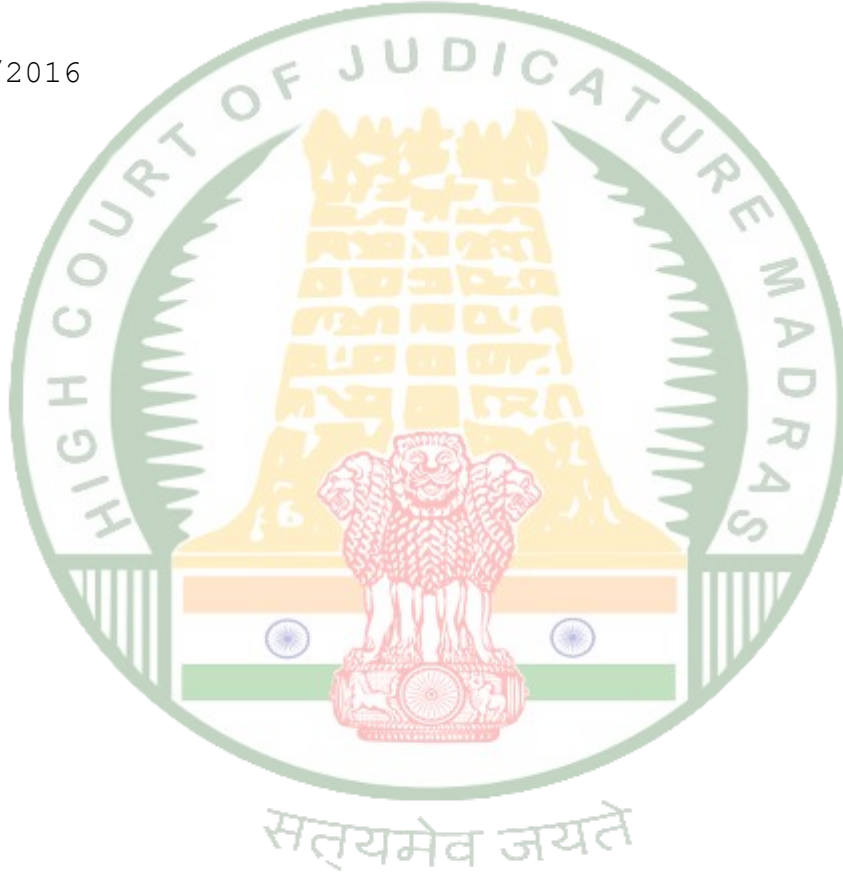
Sub Assistant Registrar

To

The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003.

W.P.No.19173 of 2016

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srg 28/06/2016



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