

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2016

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.28400 of 2014
and
M.P.Nos.1 to 3 of 2014

Gokul Gardens Residents' Welfare Association,
rep. by its Secretary Thiru K.Arivazhagan,
B-4, Block IV, Gokul Gardens,
No.182 Trunk Road, Porur, Chennai - 116. ... Petitioner

Vs.

- 1.The Commissioner,
Corporation of Chennai,
Rippon Building, Chennai - 3.
- 2.The Zonal Officer (Zone -XI)
Valasaravakkam, Chennai.
- 3.The Inspector of Police,
Porur, Chennai - 116.
- 4.K.Balasikhamani,
- 5.The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road
Egmore, Chennai - 8. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus forbearing the respondents 3 to 5 from in any manner, allowing or permitting the fourth respondent in any manner, resorting to demolition of the incomplete Block -A of stilt + 4 floors in Survey Nos.233, 234/4; 234/5; 235; 237/1, 245/1; 245/2A; 245/2B, and 245/3 at No.182, Trunk Road, Porur, Chennai - 116, without obtaining permission to do so and also for controlled, cautious and as well applying all precautionary measures without any endanger to the adjacent blocks, where the members of the petitioner are residents and to further appropriately earmark OSR land/area including description of boundaries for the members of the petitioner.

For Petitioner : Mr.L.Chandrakumar

For Respondents 1 & 2 : Mr.P.V.Selvakumar
Standing Counsel

For Respondent -3 : Mr.R.Rajeswaran
Special Government Pleader

For Respondent- 4 : Mr.S.Jaikumar

O R D E R

Heard the learned counsels appearing for respective parties.

2. The petitioner is a Residents Welfare Association, and they are aggrieved by the action of the fourth respondent in attempting to demolish the multi storied apartment complex, without obtaining prior permission from the Chennai Metropolitan Development Authority (CMDA) and Corporation of Chennai. The photographs annexed at page Nos.9 and 10 of the typed set of papers filed in connection with the Writ Petition show that the building in question was partially demolished, and it is an admitted case that the fourth respondent, as on date, has not applied for permission for demolition of the building in question. If the fourth respondent has not applied for permission to demolish the building in question, then, the act of the fourth respondent in demolishing the building would be definitely illegal. Even if the fourth respondent applies for such permission, it is not that automatically, permission would be granted, as all aspects have to be considered by CMDA and Corporation of Chennai. Therefore, the petitioner-Association are fully justified in approaching this Court seeking for the relief, by filing this Writ Petition. Accordingly, the Writ Petition is allowed, the fourth respondent is restrained from demolishing the building in question, without obtaining appropriate permission from CMDA or Corporation of Chennai. It is made clear that, it is open to the fourth respondent to make an application seeking permission for demolition of the building in question, and if such an application is filed, the same shall be considered by the CMDA or Corporation of Chennai, in accordance with law, after issuing notice to the petitioner as well as the fourth respondent, and appropriate order be passed as expeditiously as possible, preferably, within a period of eight weeks from the date on which the application is made by the fourth respondent.

3. In the result, the Writ Petition is allowed, as stated above. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sd

To

1. The Commissioner,
Corporation of Chennai,
Rippon Building, Chennai - 3.
2. The Zonal Officer (Zone -XI)
Valasaravakkam, Chennai.
3. The Inspector of Police,
Porur, Chennai - 116.
4. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road
Egmore, Chennai - 8.

+1cc to Mr.L.Chandrakumar, Advocate, S.R.No.16681
+1cc to Mr.S.Jayakumar, Advocate, S.R.No.16485
+1cc to the Government Pleader, S.R.No.16633

Writ Petition No.28400 of 2014

SAI (CO)
CA(29/03/2016)

WEB COPY