

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2016

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI  
AND

THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.P. No.29380 of 2015

and

M.P.Nos.1 to 3 of 2015

Medavakkam First Grade Panchayat,  
St. Thomas Mount Panchayat Union,  
Mambakkam Main Road,  
Medavakkam,  
Kancheepuram District - 600 100  
rep. by its President B.Ravi

Petitioner

Vs.

1. The Chennai Metropolitan Development Authority, Thalamuthu Natarajan Maaligai, No.1, Gandhi Irwin Road, Egmore, Chennai - 8.
2. The Commissioner, Office of St. Thomas Mount Panchayat Union at Chitlappakkam, Chennai - 64.
3. The Extension Officer (Plan Permission), Office of St. Thomas Mount Panchayat Union at Chitlapakkam, Chennai - 64.
4. The Assistant Engineer, Tamil Nadu Electricity Board, Medavakkam, Chennai - 100.
5. The Superintendent of Police, Office of the Superintendent of Police, Kancheepuram, Kancheepuram District.

6. The Inspector of Police,  
Medavakkam Police Station,  
Medavakkam, Chennai - 100.

7. K.Parameswari

8. K.Kalidas

..Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1 to 3 herein to take immediate steps to demolish and remove the illegal construction made in Survey No.400B Door No.11/5, Velacherry Main Road, Medavakkam Panchayat by the 7th and 8th respondents or in the alternative permit the petitioner, Medavakkam Panchayat itself to demolish the illegal and unauthorised construction made by the respondents 7 and 8 in Survey No.400-B, Door No.11/5, Velacherry Main Road, Medavakkam Panchayat in terms of the Circular No.RTI/12393/2005 dated 27.04.2005 issued by the first respondent with sufficient police protection to be given by the 5th and 6th respondents herein.

For Petitioner ... Mr.V.Manoharan

For Respondents.. Mr.N.Sampath for R1  
Mr.S.K.Rameshwar for R4  
Ms.A.Srijayanthi,  
Spl. Govt. Pleader for R5 & R6  
Mr.Thiageswaran  
for M/s.Waron & Sairam  
for R7 and R8  
R2 - No appearance

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

With the consent of the learned counsel appearing for the petitioner, learned counsel for respondents 1, 4, 7 and 8 and the learned Special Government Pleader appearing for respondents 5 and 6, the writ petition is taken up for final disposal.

2.The petitioner panchayat is responsible for ensuring that all the buildings within the territorial jurisdiction of the panchayat are in accordance with proper approval and planning. In the event, a building is constructed sans approval or deviation is made, the said building has to be either demolished or rectified accordingly. The President of Medavakkam First Grade Panchayat, expressing his inability to perform his duty, has come up with the instant writ petition seeking for a

direction to respondents 1 to 3 herein to take immediate steps to demolish and remove the illegal construction made in Survey No.400B Door No.11/5, Velacherry Main Road, Medavakkam Panchayat by the 7th and 8th respondents or in the alternative permit the petitioner-Medavakkam Panchayat itself to demolish the illegal and unauthorised construction made by the respondents 7 and 8 in the aforesaid Survey Number in terms of the Circular No.RTI/12393/2005 dated 27 April 2005 issued by the first respondent.

3.Pursuant to the report filed by the first respondent - Chennai Metropolitan Development Authority, it has locked and sealed the unauthorised premises. In the counter affidavit filed by the first respondent, it has been stated as under:

"3.I respectfully submit with reference to Para-1 of the affidavit filed by the petitioner, it is stated that CMDA has not issued planning permission for the construction put up at Survey No.400-B, Door No.11/5, Velacherry Main Road, Medavakkam Panchayat. Further, CMDA, from time to time, has delegated powers to all the Local Bodies in Chennai Metropolitan Area (CMA) including the petitioner's panchayat/panchayat union for taking enforcement action against all types of unauthorised/deviated construction by invoking the provisions of Sections 56 & 57 of T& CP Act, 1971. Further, the powers to issue the building permit for all types of constructions are vested with Local Bodies concerned."

4.According to the learned counsel appearing for the first respondent, it is for the petitioner/panchayat to take consequential action of demolition and removal of the illegal construction, which on inspection, has been found proved. It is clearly stated in his earlier affidavit dated 06 October 2015 that the building in question bearing Survey No.400B Door No.11/5, Velacherry Main Road, Medavakkam Panchayat is fully unauthorised as no planning permission has been granted by the Chennai Metropolitan Development Authority. According to the petitioner, the local body has not granted any permission.

5.After locking and sealing of the premises in question, the petitioner is directed to take consequential action in accordance with law, at the earliest, preferably, within a period of three weeks from today and submit a report to this Court.

6.With the above observation and direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

7.Registry is directed to place the report before this Court on 17 February 2016.

mmi

Sd/-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

To

1. The Chennai Metropolitan Development Authority, Thalamuthu Natarajan Maaligai, No.1, Gandhi Irwin Road, Egmore, Chennai - 8.
  2. The Commissioner, Office of St. Thomas Mount Panchayat Union at Chitlappakkam, Chennai - 64.
  3. The Extension Officer (Plan Permission), Office of St. Thomas Mount Panchayat Union at Chitlapakkam, Chennai - 64.
  4. The Assistant Engineer, Tamil Nadu Electricity Board, Medavakkam, Chennai - 100.
  5. The Superintendent of Police, Office of the Superintendent of Police, Kancheepuram, Kancheepuram District.
  6. The Inspector of Police, Medavakkam Police Station, Medavakkam, Chennai - 100.
- + 2 ccs to M/s.Waraon Sairam, Advocate SR 6720, 5593,
- + 1 cc to Mr.s.K.Rameshuwar, Advocate SR 6055
- + 1 cc to the Govt.Pleader SR 6515
- + 2 ccs to Mr.V.Manoharan, Advocate Sr 1379 (5/2/16)

ad(co)  
kr3/2

W.P.No.29380 of 2015