

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2016

CORAM

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

W.P.No.21099 of 2016

Mr.Mohamed Ilyas
represented by Power Agent
Mr.K.A.Mohamed Hussain ...Petitioner

-Vs-

1. The Commissioner
Corporation of Chennai
Rippon Building, Park Town
Chennai 600 003
2. The Executive Engineer
Enforcement Cell
(Regional Deputy Commissioner Office
(South) Zones 11 to 15 of
Chennai Corporation)
Adyar, Chennai 600 020 ..Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondent authorities to de-seal Flat bearing Nos.A-1, A-2, A-5, B-1 and B-4 at Door No.120/27, Star Light Residency Chowdry Nagar Main Road, Majestic Colony, Valasaravakkam, Chennai 600 087.

For Petitioner ::Mr.S.Thanka Sivan
For Respondents::Mr.A.Nagarajan

ORDER

(Order of the Court was delivered by HULUVADI G.RAMESH, J.)

Heard the learned counsel for the petitioner. Mr.A.Nagarajan, learned standing counsel is directed to take notice on behalf of the respondents.

2. The petitioner is said to be the owner of the property bearing Door No.120/27, Star Light Residency, Chowdry Nagar Main

Road, Majestic Colony, Valasaravakkam, Chennai-87. The petitioner, having sub-divided the larger extent into Plot Nos.A and B vide the approved plan during November, 2009, has developed the property further based on the approved plan and allotted with Flat Nos.A-1, A-2, A-5, B-1 and B-4. The petitioner has also applied for sanction of building plan during August, 2015 in respect of the unauthorised construction and pending consideration of the same, the adjacent land owners have made complaints to the respondent authorities. Based on the said complaint, the respondent authorities have sought to lock and seal the premises, against which the petitioner is said to have filed an appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 and also submitted a further representation in this regard. Although the respondents permitted the occupants to remove the household articles on 6.4.2016 and 7.4.2016, once again they have locked and sealed the premises. When the respondents have de-sealed the premises in respect of nine other adjacent flat owners by removing the lock and seal and allowed them to carry out the rectification, the petitioner has submitted a representation on 7.4.2016, seeking the very same benefit to the owners of the flats in question by opening the lock and seal to carry out the necessary rectifications, pending disposal of the appeal. As the said representation has not been considered till date, the petitioner has filed this writ petition.

3. It is not in dispute that in an identical matter in W.P.No.7968 of 2016 (M/s Starlite Residency Owners Welfare Association rep.by its Joint Secretary Haja Najmudeen v. The Commissioner, Corporation of Chennai), by order dated 3.3.2016, this Court has disposed of the writ petition on the following terms:-

"10. We direct the Commissioner, Corporation of Chennai to de-seal the flats in question forthwith and thereafter inspect the building in the presence of the owners. The Corporation is directed to issue notice to the concerned owners of the flats indicating the deviations, after such inspection. In case any such deviations are pointed out, it is the responsibility of the concerned flat owners to rectify the same, within a period of six months from the date of receipt of notice. In case the flat owners fail to rectify the building by removing the deviations, it would be open to the Corporation to take further action including sealing thereafter in accordance with law. It is made clear that the flats in question shall be de-sealed immediately on receipt or on production of a copy of this order and

inspection should be conducted immediately and in any case, within a period of one week of de-sealing.

11. The writ petition is disposed of with the above direction. No costs."

4. In the light of the above, having heard the learned counsel for the parties, this writ petition is also disposed of in terms of the direction issued in W.P.No.7968 of 2016 dated 3.3.2016 as aforementioned. Consequently, W.M.P.No.18085 of 2016 is closed. No costs.

ss

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner
Corporation of Chennai
Rippon Building, Park Town
Chennai 600 003.

+ 2 ccs to Mr.S.Thanka Sivan, Advocate Sr 34060

+ 1 cc to Mr.A.Nagarajan, Advocate Sr 34177

KR/30/6/16

W.P.No.21099 of 2016

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