

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2016

CORAM

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

Writ Petition No.22422 of 2016

P.Selvi

...Petitioner

Vs.

1 The Member Secretary
Chennai Metropolitan Development Authority
Gandhi Irwin Road
Egmore, Chennai-8

2 The Corporation of Chennai
rep. by its Executive Engineer
Zone VI
Ayanavaram Chennai-23

3 Mr.P.Ramachander

4 Mr.R.Santhosh Kumar

5 Mr.Kishore Bathi

6 Mr.R.Mahender

...Respondents.

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 & 2 to demolish the unauthorised construction put up by the respondents 3 to 6 at No.65 (Old No.30) Padavattam Koil Street , Chennai 600 012.

For Petitioner : Ms.D.Geetha

For Respondents : Mr.C.Johnson for R1
Mr.A.Nagarajan for R2

O R D E R

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

Heard the learned counsel for the petitioner, Mr.C.Johnson, learned Standing counsel, who takes notice for the 1st respondent and Mr.A.Nagarajan, learned Standing counsel, who takes notice for the 2nd respondent.

2. This Writ Petition is filed directing the respondents 1 & 2 to demolish the unauthorised construction put up by the respondents 3 to 6 at No.65 (Old No.30) Padavattam Koil Street, Chennai 600 012.

3. In the Writ Petition, it is averred that one P.A.Devarajan bequeathed the property situated at No.65 (Old No.30) Padavattam Koil Street, Chennai-600 012 in favour of petitioner's father by a Will dated 14.03.2008. After the death of late Devarajan, the petitioner's father filed an application for grant of Letters of Administration in respect of the said Will dated 14.03.2008 and it was numbered as O.P.No.689 of 2010 and subsequently converted as T.O.S.No.11 of 2011 and the same is pending before this court. It is also averred that the respondents 3 to 6 purchased the said property from the first respondent in T.O.S., however, in the injunction application in the said T.O.S., they gave an undertaking that they would not alter the physical features of the building in the above mentioned property, but have demolished and put up an unauthorised construction. In this regard, the Writ Petitioner is stated to have preferred complaints to 1st and 2nd respondents to take action against the unauthorised construction. It is also averred in the Writ Petition that 2nd respondent did not initiate any action till date, despite the 1st respondent by letter dated 09.10.2015, stated that No Planning Permission was issued by CMDA.

4. The learned counsel for the petitioner submits that the 1st and 2nd respondents are duty bound to take action against the unauthorised construction put up by respondents 3 to 6 as contemplated under Section 256 of the Chennai City Municipal Corporation, 1919.

5. Considering all the above facts and circumstances of the case, we hereby direct the 1st and 2nd respondents to do the needful in accordance with law, after hearing both sides and after thorough verification of the necessary documents with regard to construction alleged to have been carried out by respondents 3 to 6. The 1st and 2nd respondents shall carry out the above said exercise within a period of 2 months from the date of receipt of a copy of this order.

6. The Writ Petition is disposed of with the above direction. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

nvsri

To

1 The Member Secretary
Chennai Metropolitan Development Authority
Gandhi Irwin Road
Egmore, Chennai-8

2 The Executive Engineer
Corporation of Chennai
Zone VI
Ayanavaram Chennai-23

+1 cc to M/s.D.Geetha Advocate sr.36290
+1 cc to Mr.C.Johnson Advocate sr.36277
+1 cc to Mr.A.Nagarajan Advocate sr.36299

W.P.No.22422 of 2016

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