

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2016

CORAM

THE HON'BLE MR. JUSTICE SATISH K.AGNIHOTRI
and
THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

W.P. No.2966 of 2016
and
W.M.P.No.2452 of 2016

R.Chandramohan

..Petitioner

Vs.

1.The Director,
Town and Country Planning Authority,
No.807, Anna Salai, Chennai - 2.

2.Dy. Director/Member Secretary,
Trichy Town Planning,
No.10, Williams Road,
Contonment, Trichy.

3.P.Jayakumar

..Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of mandamus directing the first and second respondents to restore the property to its original state since the construction have been put with property in total violation of the planning permission exercising power under Section 85 of the Town and Country Planning Act, 1971, by demolishing the unauthorised construction put up in an extent of 9856 sq.ft. namely ownership plot in part bearing S.Nos.5/1A, 5/2B, 5/2C and 5/2D of Contonment Area behind the SBI Colony, Tiruchirappalli in violation of second respondent's planning permission vide No.27/2010 dated 18.03.2010 in Ref.Na.Ka.308/2010.

For Petitioner .. Mr.Elephant G.Rajendran

For Respondents .. Mr.P.S.Sivashanmugha Sundaram,
Spl. Govt. Pleader for R1 & R2
R3 - No Appearance

ORDER

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

Mr.P.S.Sivashanmugha Sundaram, learned Special Government Pleader accepts notice on behalf of respondents 1 and 2. Despite service of notice, none appeared on behalf of the third respondent. Thus, with the consent of the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for respondents 1 and 2, the writ petition is taken up for final disposal.

2. Seeking a direction to respondents 1 and 2 to restore the property to its original state since the construction have been put with property in total violation of the planning permission exercising power under Section 85 of the Town and Country Planning Act, 1971, by demolishing the unauthorised construction put up in an extent of 9856 sq.ft. viz., plot in part bearing S.Nos.5/1A, 5/2B, 5/2C and 5/2D of Contonment Area behind the SBI Colony, Tiruchirappalli in violation of second respondent's planning permission vide No.27/2010 dated 18.03.2010 in Ref.Na.Ka.308/2010, the petitioner has come up with the instant writ petition.

3. It is the case of the petitioner that he is the owner of the plot in question and pursuant to the deed of memorandum of understanding entered into between the petitioner and the third respondent/builder, flats bearing Nos.1-A, 1-D, 2-B, 2-E, 3-B, 3-D and 3-E were allotted to the petitioner. According to the petitioner, two flats viz., 3-D and 3-E allotted to him were unapproved. Alleging that the third respondent builder cheated the petitioner by allotting the unapproved flats, the petitioner has filed the present writ petition.

4. Pursuant to the notice issued by this Court, the second respondent has filed counter affidavit stating that the third respondent had obtained planning permission for construction of 12 dwelling units but he has constructed 15 dwelling units illegally. It is stated that the second respondent has issued a notice on 07 January 2015 directing the third respondent to remove the unauthorised portion. It is further stated that the East Gate Apartment Flat Owners Welfare Association has filed a suit being O.S.No.129 of 2015 on the file of II Additional District Munsif, Tiruchirappalli and because of the pendency of the suit, the second respondent is not able to take action.

5. Now, it is submitted at the Bar that the suit being O.S.No.129 of 2015 on the file of II Additional District Munsif, Tiruchirappalli, was rejected on 30 March 2016.

6.Learned Special Government Pleader appearing for respondents 1 and 2 submits that action will be initiated forthwith in accordance with law and concluded within a period of four weeks.

7.In view of the above submission made by the learned Special Government Pleader appearing for respondents 1 and 2, it is ordered accordingly.

8.With the aforestated observation and direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

mmi

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

- 1.The Director,
Town and Country Planning Authority,
No.807, Anna Salai, Chennai - 2.
- 2.The Deputy Director/Member Secretary,
Trichy Town Planning,
No.10, Williams Road,
Contonment, Trichy.

+ 1 cc to Mr.Elephant G.Rajendran, Advocate Sr 5244

+ 1 cc to The Govt.Pleader, Sr 22787

KR/22/4/16

W.P.No.2966 of 2016

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