

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.P. No.28580 of 2013

and M.P.No.1 of 2013

Raniammal

.. Petitioner

-vs-

- 1.The Commissioner,
Corporation of Chennai,
Ripon Building, Chennai 600 003.
- 2.The Executive Engineer,
Zone XIII, L.B. Road,
Adayar, Chennai 600 020.
- 3.The Asst. Commissioner,
Zone XIII, 115, L.B. Road,
Adayar, Chennai 600 020.
- 4.The Assistant Engineer,
Division No.149, No.3, Kamaraj Salai,
Raja Annamalaipuram,
Chennai 600 028.
- 5.Praveen Babu
- 6.K.Murthy

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct respondents 1, 2 and 4 to consider the representation of the petitioner dated 09.10.2013 and consequently direct respondents 1 to 4 not to demolish the property of the petitioner without due process of law.

For Petitioner : No appearance

For Respondents : Mr.V.C.Selvasekaran for RR 1 to 4
: No appearance for RR 5 and 6

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O R D E R
(Order of the Court was made by The Hon'ble Chief Justice)

The fifth respondent is alleged to have given a complaint in respect of unauthorised construction put up by the sixth respondent. The petitioner is the mother of the sixth respondent. The notice issued by the respondent-Corporation under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971, was received by the petitioner on 10.09.2012, as per the original record produced before us. This notice was issued post inspection calling upon for production of approved plan. However, no plan was produced and thus, locking, sealing and demolition notice was issued on 01.10.2012.

2.It is stated that the fifth respondent filed Writ Petition No.7313 of 2013 for removal of the unauthorised construction by the sixth respondent which was disposed of on 26.06.2013 recording the statement of the learned counsel for the Corporation that action in accordance with law would be taken within two (2) weeks.

3.The sixth respondent, then, filed Writ Petition No.27593 of 2013 seeking to impugn the notice dated 01.10.2012, but that writ petition was withdrawn on 04.10.2013.

4.It is, thereafter, that the present endeavour has been made by the mother of the sixth respondent by filing the present petition seeking a direction for disposal of the representation of the petitioner dated 09.10.2013. It is her case in the representation that there has been no unauthorised construction or encroachment. A fresh plan was also submitted with the representation seeking its consideration.

5.Learned counsel for the Corporation states, on instructions, that on 23.11.2016, a letter was addressed to the petitioner intimating that she had not deposited the requisite charges for the building permission, which ought to be deposited. This is in context of the fact that the petitioner / sixth respondent had neither obtained building permission nor planning permission before carrying on construction. In so far as the planning permission is concerned, the jurisdiction would be with the CMDA, who has not even been impleaded as a party in the present petition.

6.In view of the aforesaid facts, the prayer as made in this petition cannot be granted as the jurisdiction for regularisation, the petitioner / sixth respondent having made construction without sanction, vests with the CMDA.

7.Writ petition is, accordingly, dismissed. No costs. The interim order of status quo stands vacated and consequently, M.P.No.1 of 2013 also stands dismissed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

To

- 1.The Commissioner,
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- 4.The Assistant Engineer,
Division No.149, No.3, Kamaraj Salai,
Raja Annamalaipuram,
Chennai 600 028.

+1 cc to Mr.P.Vasanth,advocate,sr.69513.

mg(co)
krd 8/12

W.P.No.28580 of 2013

सत्यमेव जयते
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