

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2016

CORAM :

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

Writ Petition No.30984 of 2016
and
W.M.P.No.27413 of 2016

K.Karthikeyan

... Petitioner

Vs.

1.The Commissioner,
Corporation of Chennai,
Chennai.

2.The Deputy Commissioner,
Corporation of Chennai,
Zone - 8, Division - 108,
Shenoy Nagar, Chennai.

3.P.Kasi

4.Mrs.Valliyammai

5.S.Subbukumar

6.The Chennai Metropolitan Development Authority,
Thalamuthu Building,
Egmore, Chennai.

... Respondents

(Suomoto impleaded as per order of
Court dated 19.09.2016)

Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents 1 & 2 to take appropriate action against the respondents 3 to 5 for their illegal construction by way of uplift their house by using hydraulic jack without any approval made in Door No.5C/16, Annal Kamarajar Street, Choolaimedu, Chennai - 94.

For Petitioner	:	Mr.C.Prakasam
For RR.1 & 2	:	Mr.P.V.Selvakumar
For RR3 to 5	:	Mr.R.Ezhilarasan
For R.6	:	Mr.P.Tamil Mani

ORDER

Though the miscellaneous petition is listed today, by consent of both parties, the writ petition itself is taken up for final disposal.

2.The petitioner is the owner of the property bearing No.5D/18, Annal Kamarajar Street, Choolaimedu, Chennai - 600 014. His neighbours namely, respondents 3 to 5 are engaging an Agency to uplift their respective houses by 5 feet from the existing foundation, without getting any approval from the Chennai Corporation.

3.Since, the Chennai Corporation could give permission only for ground + two floors in Chennai and for higher floors, only the Chennai Metropolitan Development Authority (In short, "the CMDA") is the appropriate authority, this Court suo motu impleads the CMDA as a sixth respondent in this writ petition. Mr.P.Tamil Mani, learned Standing Counsel takes notice for the sixth respondent.

4.Heard the learned counsel for the petitioner; learned Standing Counsel for the respondents 1 & 2; learned counsel for the respondents 3 to 5 and the learned Standing Counsel for the sixth respondent.

5.Since, there is no approval from the Chennai Corporation or from the CMDA for uplifting the houses of the respondents 3 to 5 from foundation, the petitioner apprehends that there is possibility of sliding of the property of the respondents 3 to 5 thereby affecting the life and property of the neighbours. Therefore, the petitioner approached this Court after giving representation on 31.08.2016 to the Chennai Corporation, for a mandamus to take appropriate action against the respondents 3 to 5 for illegally uplifting their houses, without any approval from the appropriate authorities.

6.When the matter is taken up for hearing today, Mr.C.Prakasam, learned counsel for the petitioner and Mr.R.Ezhilarasan, learned counsel for the respondents 3 to 5 would submit that the matter has been settled between the parties amicably. They filed their respective affidavits stating that the complaints filed by the respective parties (petitioner and the respondents 3 to 5) would be withdrawn by the respective parties.

7.It is seen from the materials placed before this Court that one MCMD Engineering Works Private Limited, Chennai is providing specialised services in lifting and shifting residential and commercial buildings and they have been given patent certificate by the Government of India dated 22.04.2008. The uplifting and shifting of the buildings by the said company is done making use of hydraulic jack. The respondents 3 to 5 have also entered into an agreement for uplifting their houses with the said company on 11.08.2016.

8.When the scientific innovation enables the respondents 3 to 5 to lift their buildings, without demolishing the same,

the same has to be appreciated. Demolishing the construction will not only result in heavy expenses but also exploitation of natural resources viz., sand and water. The said method would even save the man power and money power in many ways and therefore, it has to be appreciated.

9. In the result, the writ petition is disposed of in terms of the affidavits filed by the respective parties (petitioner and the respondents 3 to 5). No cost. Consequently, connected miscellaneous petition is closed.

10. At this juncture, the Chennai Corporation and the CMDA are directed to frame appropriate rules to give permission for using the said technique, in the interest of individual as well as the interest of public. Further, this Court hopes that the Chennai Corporation and the CMDA will take into consideration the new techniques and if any person approaches for uplifting or shifting his/her building, the Chennai Corporation and the CMDA shall consider the same according to law, after inspection, in future and grant permission.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

jbm

To

1. The Commissioner,
Corporation of Chennai,
Chennai.

2. The Deputy Commissioner,
Corporation of Chennai,
Zone - 8, Division - 108,
Shenoy Nagar, Chennai.

3. The Chennai Metropolitan Development Authority,
Thalamuthu Building,
Egmore, Chennai.

+1cc to Mr.C.Prakasam, Advocate, S.R.No.54187
+1cc to Mr.P.V.Selvakumar, Advocate, S.R.No.53075
+1cc to Mr.R.Ezhilarasan, Advocate, S.R.No.53163

W.P.No.30984 of 2016

KSJ(CO)
CA(17/10/2016)