

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2016

CORAM

The HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND

The HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.33126 and 33127 of 2016

1. Devan Shah
2. Jiten Kant Shah ... Petitioners
in WP:33126/2016

D.Hariharan ... Petitioner
in WP:33127/2016

vs.

1. The Secretary to Government
Housing and Urban Development
Department
Fort St. George, Chennai-9.
2. The Commissioner
Corporation of Chennai
Chennai. ... Respondents

PRAYER in W.P.No.33126/2016: Petition under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus calling for the records of the 1st respondent in his proceedings Letter No.4221/UD -VI(2)/2016-1, dated 15.7.2016 and quash the same and consequently direct the 1st respondent to consider and pass orders on the petitioners revision petition dated 26.2.2016 on merits within a reasonable time frame.

PRAYER in W.P.No.33127/2016: Petition under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus calling for the records of the 1st respondent in his proceedings Letter No.4221/UD -VI(2)/2016, dated 15.7.2016 and quash the same and consequently direct the 1st respondent to consider and pass orders on the petitioner's revision petition dated 26.2.2016 on merits within a reasonable time frame.

For Petitioners : Mr.K.S.Karthik Raja

For Respondents : Mr.T.N.Rajagopalan
Special Govt. Pleader
for 1st respondent

Mr.K.Venkataramani
Addl. Advocate General
assisted by
Mr.V.C.Selvasekaran
for 2nd respondent

Ms.G.K.Yamini
for M/s.Surana & Surana
for owners of 1st floor
portion

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

We have perused the report filed by the Chennai Corporation. This is one more building with rampant unauthorized construction, wherein having obtained permission for ground and first floor, second to fifth floors have also been constructed, which are completely unauthorized.

2. Insofar as the ground floor is concerned, once again there are unauthorized deviations. The learned counsel appearing for the ground floor owners/petitioners in the writ petitions submits that the seal may be opened for the ground floor portion to rectify and bring it in conformity with the sanction plan. A period of three months is requested for carrying out the rectification.

3. We, thus, direct the Corporation to open the seal of the ground floor only for purposes of carrying out rectification by the petitioners with a direction that no portion of the ground floor will be used or occupied. The rectification will be carried out within three months as prayed for and an inspection will be carried out by the Corporation within 15 days thereafter. If complete rectification has been done, then only will the petitioners be entitled to occupy the ground floor.

4. There are apparently two owners/occupants of the first floor who are not parties in the present petitions though they are today represented by a counsel before us. It is stated that the deviation in the first floor is not extensive, as it is 47.10 Sq. Metres. It is further submitted that there is a wedding in the family on 4.12.2016. The learned counsel also submits on behalf of the owners that the premises may be de-

sealed and they will carry out the necessary rectification within three months, but they may be permitted to occupy the first floor in the meantime in view of the scheduled marriage.

5. We are inclined to accept this submission, but direct the owners to file an undertaking in this behalf before the Corporation with copy before this Court and they shall remain bound by the undertaking. As for the ground floor, the process of inspection shall be carried out even in respect of the first floor.

6. We make it clear that if any deviations are found in either of the floors after the period of three months, the premises be again sealed.

7. In respect of second to fifth floor, the learned Additional Advocate General states that necessary processes will be taken and thus, these floors shall be demolished within a period of three months. Police assistance will be made available if required. The cost be recovered from the owners.

8. The Zonal Engineer present in Court states that he has taken over only 15 days ago. We fail to appreciate how four stories were constructed without anybody noticing. We, thus, deem it a fit case where an enquiry must be made by the Corporation to fix the responsibility on the officers who permitted such construction to go on under their very nose and departmental action be taken thereof and the result of which be placed before this Court.

These writ petitions are disposed of accordingly. No costs. Consequently, W.M.P.Nos.28646 and 28647 of 2016 are closed.

List for progress report on compliance on 6.1.2017.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sasi

To:

1. The Secretary to Government
Housing and Urban Development Department
Fort St. George, Chennai-9.
2. The Commissioner
Corporation of Chennai
Chennai.

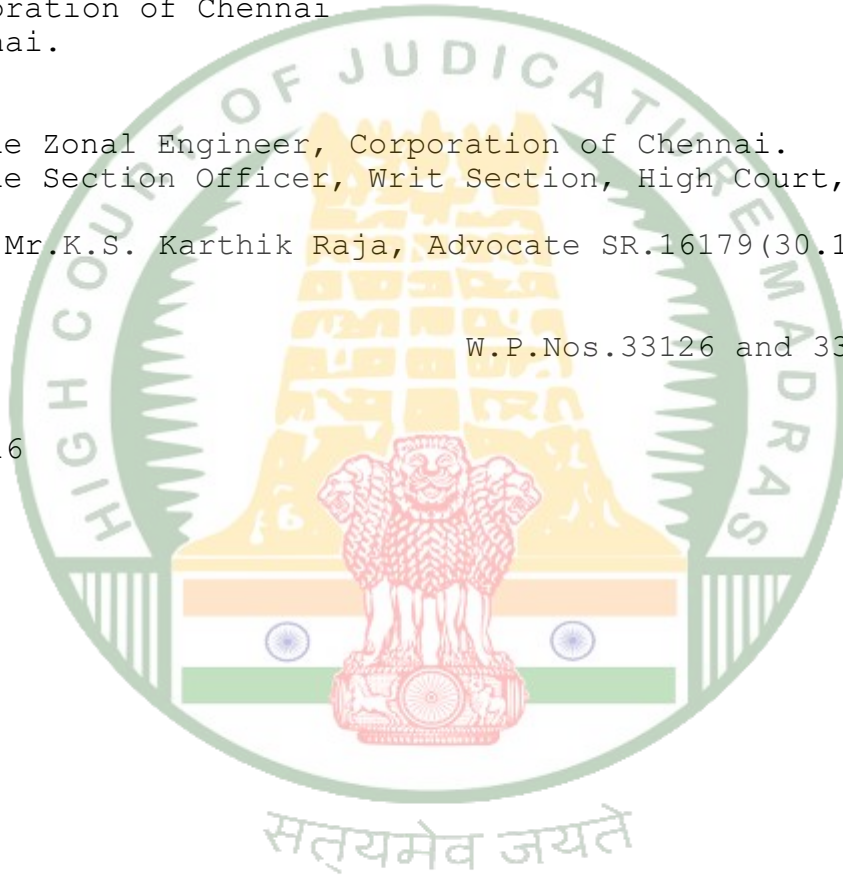
Copy to:

1. The Zonal Engineer, Corporation of Chennai.
2. The Section Officer, Writ Section, High Court, Madras.

+ 1 cc to Mr.K.S. Karthik Raja, Advocate SR.16179(30.11.16)

W.P.Nos.33126 and 33127 of 2016

GJ(CO)
EU 24.11.16



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