

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2016

CORAM :

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Writ Petition No.34401 of 2016
and
W.M.P Nos.29635 & 29636 of 2016

K. Vishwanathan ...Petitioner
Vs.

1 The Corporation of Chennai
Regional Office Central
2nd Street (East), Pulla Avenue
Shenoy Nagar Chennai 600 030

2 The Executive Engineer
Greater Chennai Corporation
Zone VIII Pullah Avenue
Shenoy Nagar Chennai 600 030

3 The Assistant Executive Engineer
Unit 22 Corporation of Chennai
Chennai

4 The Junior Engineer
Division 105
Corporation of Chennai
Chennai

5 Mrs.Bhuvaneshwari
W/o.N.Nargunam
D-59/11 Pandian Street
M.M.D.A. Colony
Chennai - 600 0106

...Respondents

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in final order passed by the 2nd respondent, vide zone VIII C.No.(Un numbered)/2016 dated 19.9.2016 and quash the same, consequently direct the respondents 1 to 4 to regularize the building Plan at Plot No.299, Door No.36, Ashoka Nagar, Arumbakkam , Chennai-106 and pass further orders.

For Petitioner : Mr. V. Vijayakumar

For Respondents : Mr. A. Nagarajan for R1 to R4

ORDER

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

Mr. A. Nagarajan, learned counsel takes notice for respondents 1 to 4 and notice to 5th respondent is dispensed with. With the consent of both the parties, the writ petition is taken up for final disposal, at the stage of admission itself.

2. This Writ Petition is filed praying to quash the final order passed by the 2nd respondent, vide zone VIII C.No.(Un numbered)/2016 dated 19.9.2016 and consequently direct the respondents 1 to 4 to regularize the building Plan at Plot No.299, Door No.36, Ashok Nagar, Arumbakkam, Chennai-106.

3. During the year 1984, the petitioner's father were allotted with 3 plots by the Tamil Nadu Slum Clearance Board, in the name of the petitioner, his sister 5th respondent and his father at Arumbakkam Village. The petitioner's father possessed some other properties also. After the demise of his father, due to property dispute among them, the petitioner's sister/ the 5th respondent, lodged a complaint to the concerned authorities stating that the petitioner has constructed his house without plan approval and hence the same should be demolished. On receipt of the notice issued by the respondents, the petitioner approached the authorities for regularizing the house plan, claiming that the same was constructed by his father about 32 years back. In the meanwhile, a petition in W.P. 13997 of 2016 was filed by his sister, 5th respondent, seeking for a Mandamus, to remove the unauthorised construction made by the petitioner in the subject property. The authorities filed a report stating that notices under Section 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 has been issued, calling upon the petitioner to produce the sanctioned plan for the construction. The Writ Petition was disposed of, with a direction to the official respondents, to take consequential action thereafter on merits and in accordance with law, within a period of six weeks. Based on the order of this Court, on 27.06.2016, the respondents issued notice for locking & sealing and demolishing the entire construction within 30 days. Without considering the representation of the petitioner dated 12.09.2016, the 2nd respondent passed an order on 19.09.2016 to initiate action for locking and sealing, after issuing 'Vacation Notice'.

4. It appears that the 5th respondent has filed a petition to remove the unauthorised construction made by the petitioner in the subject property, in W.P. No. 13997 of 2016 before this Court, which came to be disposed of, by order dated 28.04.2016, directing to consider the grievance of the 5th respondent and also that of the petitioner in accordance with law.

5. According to the petitioner, it is a family dispute and the house in which he is residing was first allotted in favour of his father, by the Slum Clearance Board and with regard to the dispute, it should have been adjudicated elsewhere. However, he has not even filed the counter before this Court, in the first round of litigation in the Writ Petition filed by his sister, the 5th respondent. Despite the representation submitted by the petitioner, the Corporation Authorities have passed the impugned order dated 19.09.2016, without considering the same.

6. Heard learned counsel for the petitioner and the learned counsel representing the department.

7. In view of the matter, the impugned order passed by the 4th respondent is set aside, with a direction to the respondent Corporation to pass appropriate orders, in accordance with law, after hearing the petitioner and the 5th respondent. The petitioner is also directed to produce relevant documents. It is for the respondent Corporation to consider the representation dated 12.09.2016, given by the petitioner and also provide an opportunity to produce all the relevant documents in favour of him and dispose of the same, within a period of two months from the date of receipt of a copy of this order. Till then, the respondents are directed not to take any steps against the petitioner.

8. The Writ Petition is allowed, with the above direction. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS V)

//True Copy//

Sub Assistant Registrar

avr

To

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+1cc to M/S.V.Vijayakumar, Advocate Sr.55905

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ctk[co]
srg 18/10/2016

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