

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2016

CORAM :

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

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.P. Nos.37085 and 37086 of 2016
and W.M.P.Nos.31878 and 31879 of 2016

M.Ramesh Kumar ... Petitioner in WP.37085 of 2016
R.Sasikala ... Petitioner in WP.37086 of 2016

-vs-

- 1.The Commissioner,
Corporation of Chennai,
Rippon Building, Chennai.
- 2.The Assistant Executive Engineer,
Regional Officer (Central),
Pullah Avenue, Shenoy Nagar,
Chennai 600 030.
- 3.Executive Engineer (Zone-IX)
Greater Chennai Corporation Zone-IX,
No.1, Lake Area 4th Cross Street,
Nungambakkam, Chennai 600 034. ... Respondents in both WPs.

Petitions filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records in notice no: Zone IX DN-110/TPENF/002/2016 (WP.37085 of 2016) and Zone IX DN-110/TPENF/001/2016 (WP.37086 of 2016) dt.6.10.2016 on the file of the third respondent and quash the same as illegal, arbitraty and against the law and thereby direct the respondent to grant planning permission for the vacant land bearing Door No.31 Harrington Road, Chetpet, Chennai 600 031, measuring about 686 sq. ft. to the petitioner.

For Petitioner : Mr.M.Sunil Kumar
For Respondents : Mr.A.Nagarajan

O R D E R

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

The impugned notices under Sections 56 and 57 read with 35 of the Tamil Nadu Town and Country Planning Act, 1971, only call upon the petitioners to produce a copy of the approved plan and to remove unauthorised construction / deviated construction, if any, in case there is no approved plan.

2.The case of the petitioners appears to be that they had purchased the property vide a registered sale deed and there is no construction being made on the property but that the property is surrounded by a wall which was already in existence at the time when they purchased the property. In this behalf, learned counsel has also drawn our attention to the civil suit being O.S.No.4043 of 2015 filed by neighbours seeking cancellation of the sale deed, demolition of the wall and a restraint against digging of a well.

3.It is also the submission of the petitioners that no sanction is required for construction of the wall.

4.If the aforesaid being the position, it is for the petitioners to respond to the notices and to take a stand on the same and naturally, the concerned authorities will thereafter pass an order on the response of the petitioners.

5.On hearing the learned counsel for the petitioners, we find that the petitioners apparently are not taking the appropriate relief itself and seeking to jumble up issues by now seeking some directions from this Court as prayed for by the learned counsel that the trial Court should expedite the suit, the trial Court may consider whether the wall is to be constructed or not, etc. If the law permits the petitioners to file such an application in the suit, we fail to appreciate why the petitioners ought not to have moved such an application than now seeking to rake up all the issues when a notice qua alleged unauthorised construction has been issued.

6.We are of the view that no intervention under Article 226 of the Constitution of India is called for.

7.Writ petitions, accordingly, stand dismissed. No costs. Consequently, W.M.P.Nos.31878 and 31870 of 2016 also stand dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Commissioner,
Corporation of Chennai,
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Chennai 600 030.
- 3.Executive Engineer (Zone-IX)
Greater Chennai Corporation Zone-IX,
No.1, Lake Area 4th Cross Street,
Nungambakkam, Chennai 600 034.

+lcc to Mr.M. Sunilkumar, Advocate, S.R.No.60271 & 60298
+lcc to Govt., Pleader Advocate, S.R.No.61038

सत्यमेव जयते W.P.Nos.37085 and 37086 of 2016

PVS (CO)
md(3/11/2016)

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