

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 1.11.2016

CORAM

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

AND

The HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.No.37822 of 2016

1. Karim Y.Currimbhoy
  2. S.Rajagopal
  3. Motilal Nichani
  4. Sanjana Yash Chabbria
  5. I.R.Shamsuddin Ibrahim
  6. Shravanthi C.
  7. K.Perumalsamy Raja
- ... Petitioners

Vs

1. The Member Secretary  
CMDA  
No.1, Gandhi Irwin Road  
Chennai - 600 008.
2. The Commissioner  
Corporation of Chennai  
Rippon Buildings  
Chennai - 600 003.
3. The Regional Deputy Commissioner  
Greater Chennai Corporation  
Zone Central, VI-X  
12B, Pulla Avenue  
Thiru Vi Ka Park  
Shenoy Nagar, Chennai - 600 030.
4. The Executive Engineer  
Zone No.9, Ward No.110  
Corporation of Chennai  
Chennai.

5. The Assistant Executive Engineer  
Zone No.9, Ward No.110  
Corporation of Chennai  
Chennai.

6. The Junior Engineer  
Zone No.9, Ward No.110  
Corporation of Chennai  
Chennai.

7. Jothivel

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of Mandamus to direct respondents to take action under Sections 49, 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971 and also to demolish the building situated at Door No.89, Sterling Road, Nungambakkam, Chennai - 600 034.

For Petitioners : Mr.G.Rajan  
For Respondents : Mr.N.Sampath  
for 1<sup>st</sup> respondent  
Mr.Arun Mozhi  
for respondents 2 to 6

ORDER

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

On hearing learned counsel for parties, it now transpires that the CMDA sought to wash its hands of the issue of alleged unauthorized construction by private respondent No.7 in the adjacent property of the petitioners by addressing a letter on 27.6.2016 to the Corporation to take action.

2. On our query, initially, the counsel sought to put the burden on each other, but when we sought to summon the heads of both the organizations, the CMDA counsel concedes that the matter will fall within its jurisdiction. We see no reason why on 27.6.2016, in such eventuality, should the letter have been addressed to the Corporation instead of taking action itself. Naturally, in view of this stand of the CMDA, the petitioner then sought to approach the Corporation vide a complaint on 15.9.2016. This habit of shifting burden on the other authority must stop and we direct that our order be placed before the Member Secretary, CMDA for necessary administrative action.

3. In view of the stand now taken by the learned counsel for the CMDA, we direct that the CMDA will cause an inspection to be made of the property in question and if unauthorized construction is detected, to take action in accordance with law after notice to all concerned. The inspection be carried out within fifteen days of receipt of the order and on detection of unauthorized construction, the decision be taken within a maximum period of two months thereafter.

The petition, accordingly, stands disposed of. No costs. Consequently, W.M.P.No.32411 of 2016 is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

sasi

To:

1. The Member Secretary  
CMDA  
No.1, Gandhi Irwin Road  
Chennai - 600 008.
2. The Commissioner  
Corporation of Chennai  
Rippon Buildings  
Chennai - 600 003.
3. The Regional Deputy Commissioner  
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Chennai.

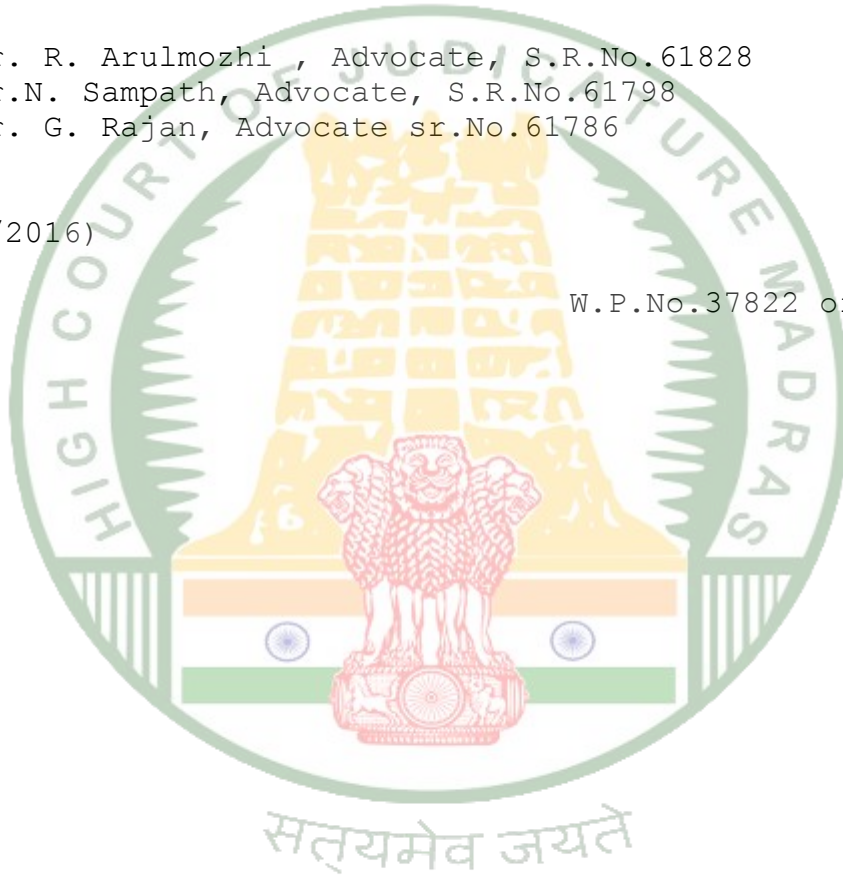
5. The Assistant Executive Engineer  
Zone No.9, Ward No.110  
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Chennai.

6. The Junior Engineer  
Zone No.9, Ward No.110  
Corporation of Chennai  
Chennai.

+lcc to Mr. R. Arulmozhi , Advocate, S.R.No.61828  
+lcc to Mr.N. Sampath, Advocate, S.R.No.61798  
+lcc to Mr. G. Rajan, Advocate sr.No.61786

pvs (CO)  
md (12/11/2016)

W.P.No.37822 of 2016



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