

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2016

CORAM :

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

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.P. No.38005 of 2016

S.Narayanan ... Petitioner

-vs-

1.The Member Secretary,
Chennai Metropolitan Development
Authority, Thalamuthu Natarajan
Building, No.1, Gandhi-Irwin Road,
Egmore, Chennai 600 008.

2.The Commissioner,
Corporation of Chennai,
Chennai 600 003.

3.S.Rakesh Kumar ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct first and second respondents herein to consider the petitioner representation dated 26.08.2016 and take action in terms of G.O. (3D) No.95, dated 30.05.2016 and demolish the illegal construction put up by the third respondent at Plot No.28, Sathamoorthy Street, Srinivasa Nagar, Peerankaranai, Chennai-63, in S.No.89/20,8, Peerankaranai Village.

For Petitioner : Mr.V.Chandraprabu
For Respondents : Mr.N.Sampath for R-1
: Mr.A.Nagarajan for R-2

O R D E R

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

The grievance of the petitioner is that no action has been taken in terms of G.O.Ms.No.95, Housing and Urban Development Department, dated 30.05.2016 to demolish the illegal

construction put up by the private third respondent at Plot No.28, Sathammoorthy Street, Srinivasa Nagar, Peerkankaranai, Chennai. The petitioner is a resident of the same area. It is alleged by the petitioner that the third respondent is a Ward Councillor who sought regularisation of the illegal construction, the planning permission has, however, been returned, de-occupation notice was issued on 09.12.2014 and the appeal preferred by the third respondent was dismissed vide G.O. dated 30.05.2016. But, still no action was taken.

2.The petitioner obtained information under the Right to Information Act to the effect that the G.O. has been received by the Enforcement Cell on 19.07.2016 and no further action has been taken which compelled the petitioner to file a representation on 26.08.2016, whereafter the present writ petition has been filed under Article 226 of the Constitution of India for issuance of directions to the respondent authorities to carry on their statutory duties.

3.We must say that the repeated cases coming before this Court show a complete absence of realisation on part of the authorities to perform their statutory duties. It appears that unless they are egged on by complaints or judicial orders, they seem not to work. This position is unacceptable. It is not as if when the petitioner makes a complaint or this Court passes an order should action be taken.

4.Learned counsel appearing for the first respondent states that they took action by issuing stop work notice on 20.05.2013, lock and seal notice on 09.04.2014 with demolition notice issued on 16.05.2014. In this process of time, continuously construction has gone on, as is apparent from the photographs.

5.We consider this a complete abdication of statutory duties by the concerned authorities and we direct the Member Secretary of the first respondent/CMDA to hold a departmental enquiry to fix responsibility and to file a report before us in respect thereof.

6.Needless to say that now at least, as assured by the learned counsel, action in accordance with law will be taken forthwith.

7.For compelling the petitioner and not leaving any option but for him to approach the Court and for complete inaction as also wastage of judicial time, we burden the first respondent with costs of Rs.10,000/- (Rupees ten thousand only), half of it will be paid to the petitioner and the remaining half deposited with the Tamil Nadu Mediation and Conciliation Centre, Madras

High Court Campus, within two (2) weeks from today, which be recovered from the delinquent officer.

8.Writ petition, accordingly, stands disposed of. No costs.

9.List for compliance on 25.11.2016.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sra

To

- 1.The Member Secretary,
Chennai Metropolitan Development
Authority, Thalamuthu Natarajan
Building, No.1, Gandhi-Irwin Road,
Egmore, Chennai 600 008.
- 2.The Commissioner,
Corporation of Chennai,
Chennai 600 003.
- 3 The Section Officer,
Writ Section, High Court, Madras (to list the case on 25.11.2016)
- 4 The Tamil Nadu Mediation
and Conciliation center,
Madras High Court Compus

+lcc to Mr.N. Sampath, Advocate, S.R.No.62380
+lcc to Mr.V. Chandraprabu, Advocate, S.R.No.61993

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

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