

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. No.5561 of 2016

Sree Durga Apartment Owners Association
represented by its Secretary
Sree Durga Apartments Owners Association
New No.3/111, Ponnamman Koil Street
Sathyanarayanapuram
Moulivakkam, Chennai 600 125

...Petitioner

Vs.

1 The District Collector
Collectorate
Kancheepuram

2 The Chennai Metropolitan Development Authority
represented by its Member Secretary
No.1, Gandhi Irwin Road
Chennai 600 008

3 The Commissioner
Kundrathur Panchayat Union
Padappai
Kancheepuram District

4 Thilagavathi

5 D. Sekhar

...Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the third respondent to take immediate action of the removal of the unauthorised construction put up by the respondent 4 and 5 in the second floor of the building Sree Durga Apartment, New No.3/111, Ponnamman Koil Street, Sathyanarayanapuram, Mowlivakkam, Chennai 600 125.

For petitioner Mr. Jayesh B. Dolia
for M/s. Aiyar and Dolia
For R1 Mr. P.S. Sivashanmugasundaram
Special Government Pleader
For R2 Mr. N. Sampath, Standing Counsel
For R3 Mr. R. Vijayakumar

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for the first respondent. Mr. N. Sampath, learned Standing Counsel, accepts notice for the second respondent. Mr. R. Vijayakumar, learned counsel, accepts notice for the third respondent. Notice to respondents 4 and 5 is dispensed with at this stage, inasmuch as no order, prejudicial to their interest, is passed in this writ petition. Thus, with the consent of the learned counsel for the petitioner, learned Special Government Pleader appearing for the first respondent and the learned Standing Counsel appearing for respondents 2 and 3 respectively, this writ petition is taken up for final disposal, at the admission stage itself.

2 This writ petition is filed seeking a writ of mandamus directing the third respondent to take immediate action for removal of the alleged unauthorised construction put up by respondents 4 and 5 in the second floor of the building, viz., Sree Durga Apartment, New No.3/111, Ponniannan Koil Street, Sathyanarayanapuram, Mowlivakkam, Chennai 600 125.

3 According to the learned counsel for the petitioner, the petitioner is the association of owners of Sree Durga Apartments and the private respondents are the builders of the said apartments. The petitioner association, vide a communication dated 18 March 2015, has requested the first respondent, viz., the District Collector, Kancheepuram, to issue necessary instructions to the authorities concerned for removal of the alleged unauthorised construction on the apartments, else, the entire building may collapse at any point of time, with a copy marked to respondents 2 and 3 and also to the President, Mowlivakkam Panchayat. The second respondent, taking cognizance of the petitioner association's communication, directed the third respondent, viz., the Commissioner, Kundrathur Panchayat Union, by communication dated 15 April 2015, to initiate enforcement action, as the third respondent is the competent authority to ensure that no unauthorised construction exists or continues in the area. Thereafter, on 04 May 2015, the third respondent directed the Extension Officer (Plan) of the Kundrathur Panchayat Union, to inspect the site

and submit a report. However, no consequential action was taken thereon. Hence, the petitioner association addressed representations to the concerned Panchayat Union, viz., Moulivakkam Panchayat Union on 21 July 2015 and 08 September 2015. Not stopping with that, the petitioner made yet another representation to the third respondent on 18 November 2015. Notwithstanding the petitioner's persistent and relentless efforts, till date, no enforcement action has been initiated to remove the alleged unauthorised construction. Hence, the instant writ petition seeking the aforestated relief.

4 Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, appearing for the first respondent, submits that necessary enforcement action, on proper verification of the site, will be taken, after notice to the alleged violators and on verification, if it is found that unauthorised construction has been made, necessary steps for removal of the same will be taken and a report will be submitted to this Court within three weeks.

5 In view of the above submission of the learned Special Government Pleader, it is ordered accordingly.

The writ petition stands disposed of with the above observation. Costs made easy. Post the matter after four weeks, for reporting compliance.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

सत्यमेव जयते

To

- 1 The District Collector,
O/o the District Collectorate,
Kancheepuram 631 501.
- 2 The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Chennai-600 008.

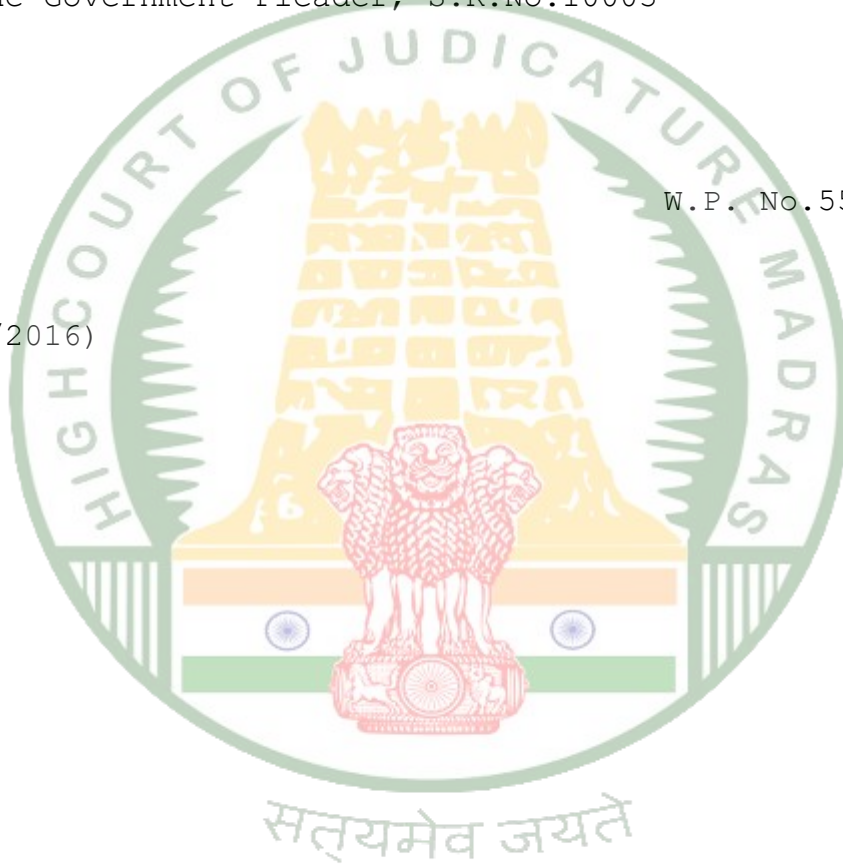
3 The Commissioner,
Kundrathur Panchayat Union,
Padappai,
Kancheepuram District.

4 The Section Officer,
Writ Section,
High Court,
Chennai.

+lcc to M/S.Aiyar and Dolia, Advocate, S.R.No.9713
+lcc to the Government Pleader, S.R.No.10003

W.P. No.5561 of 2016

kji (CO)
srg (22/02/2016)



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