

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2016

CORAM

THE HON'BLE MR. JUSTICE K.K.SASIDHARAN
and
THE HON'BLE MR. JUSTICE M.VENUGOPAL

W.P. No.7968 of 2016

M/s.Starlite Residency Owners Welfare
Association rep. by its
Joint Secretary Haja Najmudeen .. Petitioner

Vs.

The Commissioner,
Corporation of Chennai,
Rippon Building, Park Town,
Chennai - 3. ... Respondent

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of mandamus directing the respondent to unseal the subject nine flats bearing Nos.A-3, A-4, A-6, A-7, B-2, B-3, B-5, B-6 and B-7 of the premises bearing Door No.120/27, Majestic Colony Main Road, Chowdry Nagar, Valasaravakkam, Chennai - 87 immediately.

For Petitioner .. Mr.K.Ramakrishna Reddy
For Respondent .. Mr.R.Arunmozhi

ORDER

(Order of the Court was made by K.K.SASIDHARAN, J.)

By consent, the writ petition is taken up for final disposal during the time of admission.

2.Heard the learned counsel for the petitioner and the learned standing counsel for the Corporation of Chennai.

3.The petitioner filed a writ petition in W.P.No.21336 of 2015 alleging that the builder involved in unauthorised construction and as such action should be taken. This Court, by order dated 03 September 2015, directed the Commissioner, Corporation of Chennai to take appropriate action, pursuant to the notice issued to lock and seal the premises on 08 August 2015.

4. Since action was not taken by the Corporation, the petitioner initiated contempt proceedings before this Court. When contempt notice was served on the respondent, the Corporation sealed the entire premises including the nine flats bearing Nos. A-3, A-4, A-6, A-7, B-2, B-3, B-5, B-6 and B-7. Feeling aggrieved by the said action, the petitioner is before this Court.

5. The learned counsel for the petitioner contended that the Corporation of Chennai has not issued any notice to the flat owners indicating the violation insofar as these nine apartments are concerned. According to the learned counsel, the flat owners are prepared to remove the deviated portions in case the same is pointed out by the Corporation.

6. The learned standing counsel for the Corporation of Chennai submitted that the Corporation is prepared to inspect the building and point out the deviations insofar as these nine flats are concerned, for the purpose of rectification.

7. The petitioner is the Association of flat owners owning nine apartments bearing Nos. A-3, A-4, A-6, A-7, B-2, B-3, B-5, B-6 and B-7 at Door No. 120/27, Majestic Colony Main Road, Chowdury Nagar, Valasaravakkam, Chennai - 87. The Corporation of Chennai took action against the unauthorised construction made by the builder pursuant to the orders in the writ petition filed by the very same petitioner. It is the grievance of the petitioner that it was only on account of the legal proceedings initiated by the petitioner, the Corporation sealed the other nine flats without pointing out any kind of violation.

8. The petitioner submitted a representation to the Corporation on 20 February 2016 wherein they have undertaken to remove the deviated portion within a period of six months in case the Corporation is in a position to point out such deviations.

9. The notice issued by the Corporation of Chennai to the individual flat owners does not contain any indication with regard to the violation. We are therefore of the view that the issue requires consideration by the Corporation.

10. We direct the Commissioner, Corporation of Chennai to de-seal the flats in question forthwith and thereafter inspect the building in the presence of the owners. The Corporation is directed to issue notice to the concerned owners of the flats indicating the deviations, after such inspection. In case any such deviations are pointed out, it is the responsibility of the concerned flat owners to rectify the same, within a period of six months from the date of receipt of notice. In case the flat

owners fail to rectify the building by removing the deviations, it would be open to the Corporation to take further action including sealing thereafter in accordance with law. It is made clear that the flats in question shall be de-sealed immediately on receipt or on production of a copy of this order and inspection should be conducted immediately and in any case, within a period of one week of de-sealing.

11.The writ petition is disposed of with the above direction. No costs.
mmi

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

To

The Commissioner,
Corporation of Chennai,
Rippon Building, Park Town,
Chennai - 3.

+ 1 cc to Mr.R.Arunmozhi,Advocate, SR 13620

+ 3 ccs to Mr.K.Ramakrishna Reddy,Advocate, SR 13537

rv(co)
prk7/3

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