

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2016

CORAM

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

W.P. No.9756 of 2016
and
W.M.P.No.8746 of 2016

C.Prabhakaran .. Petitioner
Vs.

1.State of Tamil Nadu
Rep. by its Secretary,
Housing and Urban Development
Department, Fort St. George,
Chennai - 9.

2.The Member Secretary,
Chennai Metropolitan Development
Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 8.

3.The Commissioner,
Avadi Municipality,
Avadi, Chennai - 54.

4.J.Jothi .. Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of mandamus directing the third respondent to forthwith implement the order of demolition passed by the first respondent vide its proceedings bearing Letter No.10771/UD-VI(2)/2014 dated 28.11.2014 in accordance with the refusal order dated 05.03.2014 passed by the second respondent.

For Petitioner .. Mr.N.V.N.Margandeyan

For Respondents.. Ms.T.T.Girija,
Govt. Advocate for R1
Mr.N.Sampath,
Standing Counsel for R2
Mr.R.Purushothaman
for Mr.P.Srinivas for R3
Mr.K.Mohanamurali for R4

ORDER

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

With the consent of the learned counsel appearing for the parties, the writ petition is taken up for final disposal.

2. Seeking a direction to the third respondent to forthwith implement the order of demolition passed by the first respondent vide its proceedings bearing Letter No.10771/UD-VI(2)/2014 dated 28 November 2014 in accordance with the refusal order dated 05 March 2014 passed by the second respondent, the petitioner has come up with the instant writ petition.

3. The brief facts are that the petitioner, who is the neighbour of the fourth respondent, filed a writ petition being W.P.No.31202 of 2013 to forbear the third respondent from permitting the fourth respondent and her husband to carry on the illegal construction of marriage hall at Door No.285, Chennai Thiruvallur High Road, Avadi, Chennai, whereunder, a direction was issued to the third respondent to complete the enquiry within a period of eight weeks. Alleging non-compliance of the said order, the petitioner filed Contempt Petition being Cont.P.No.1951 of 2014, which was closed, recording the submission of the third respondent that demolition notice was issued to the fourth respondent. Thereafter, the fourth respondent filed W.P.No.21114 of 2014 and sought direction to the first respondent to dispose of the pending appeal. Pursuant to the orders passed in the said writ petition, the first respondent granted three months' time to the fourth respondent to demolish the unauthorised construction. Again, the fourth respondent filed W.P.No.6740 of 2015, seeking a direction to the first respondent to consider her representation dated 13 February 2015. Since the first respondent granted further six months' time for demolition, on 17 March 2015 and another six months' time in the month of January, 2016, the petitioner is before this Court with the aforestated prayer.

4. We have examined the facts. The first respondent, without assigning reasons, initially granted three months' time on 28 November 2014. Thereafter, again became very much considerate and granted six months' time on 17 March 2015. Showing undue interest/indulgence, further six months' time was granted on 19 January 2016, completely ignoring the fact that earlier, the fourth respondent was granted more than the time required to remove the unauthorised construction. It appears that for no reasons, the time has been granted till 19 July 2016.

5. On perusal of the documents, we do not find any reason as to why undue indulgence has been shown while granting time, in the case of fourth respondent, by the first respondent. The first respondent is expected to consider the reasons while granting time again and again.

6. Learned counsel appearing for the fourth respondent submits that the removal of unauthorised construction will be done within a period of one month from today. Therefore, we grant only one month time from today to the fourth respondent to remove the unauthorised construction. In default, the second and third respondents are directed to remove the unauthorised construction forthwith within a period of one week and submit a report to this Court.

7. With the aforesaid observation and direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
Housing and Urban Development
Department, Fort St. George,
Chennai - 9.

2. The Member Secretary,
Chennai Metropolitan Development
Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 8.

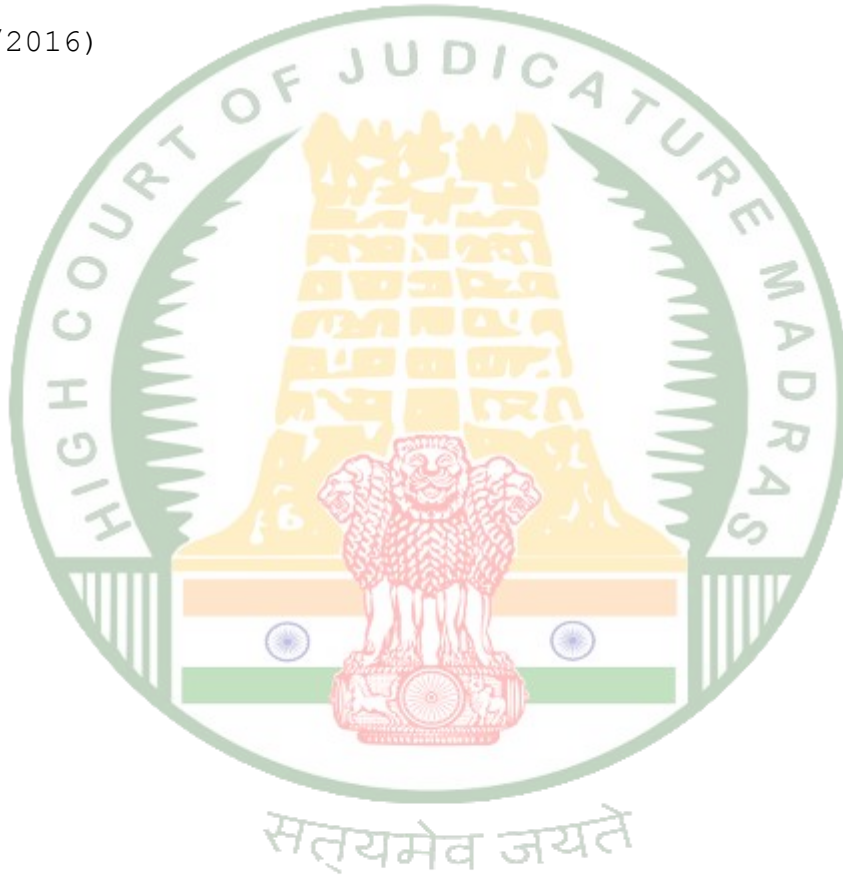
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3.The Commissioner,
Avadi Municipality,
Avadi, Chennai - 54.

+1cc to Mr.K.MohanaMurali, Advocate, S.R.No.18460
+1cc to Mr.P.Srinivas, Advocate, S.R.No.18744
+1cc to Mr.N.V.N.Margandeyar, Advocate sr.18330
+1cc to the Government Pleader, S.R.No.19605

W.P.No.9756 of 2016

ad(CO)
srg(01/04/2016)



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