

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE SATRUGHANA PUJAHARI

WP No.30303 of 2017

and

WMP No.33035 of 2017

1. J.Padmanabhan
2. Aradhana Gopinath
3. V.Nithyanandam
4. Hemalatha
5. D.Shanmuga Sundaram
6. J.Vijaya ..Petitioners

Vs

1. The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building,
No.1., Gandhi Irwin Road, Egmore,
Chennai - 600 008.
2. The Commissioner,
Greater Chennai Corporation,
Rippon Buildings, Chennai - 600 003.
3. The Executive Engineer,
Zone - 9, Greater Chennai Corporation,
No.1, Lake area, Nungambakkam,
Chennai - 600 034.
4. The Assistant Engineer,
Ward No.109, Area 24, Zone No.9,
Gill Nagar, Chennai - 600 094.
5. Mathi
6. M.Raju
7. K.Ponnusamy ..Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents 2 to 4 to implement the de-occupation notice dated 22.03.2017 issued by the 2nd respondent and to close down the commercial hotel run by the respondents 5 and 6 through the 7th respondent in the residential apartment at Rudra Apartments, New No.10, Old No.54/55, Shanmuganar Salai, Gill Nagar, Choolaimedu, Chennai - 600 094.

For petitioner : Mr.S.Sathishrajan
For R-1 : Mr.A.Kumar
For R-2 to R-4 : Mr.A.Nagarajan
For R-5 and R-6 : Mr.Mariappan
For R-7 : Mr.J.A.Prahakaran

ORDER

[Order of the Court was delivered by M.SATHYANARAYANAN, J.]

By consent the writ petition is taken up for final disposal.

2. The petitioners would aver that they are the owners of Flat B to Flat G respectively at Rudra Apartments, New No.10, Old No.54/55, Shanmuganar Salai, Gill Nagar, Choolaimedu, Chennai - 600 094 and the said Flats were constructed during the year 1987, as per the approved plan granted by the Corporation of Chennai vide Approval No.374 of 1987 dated 27.05.1987 and as per the approval, construction of 7 dwelling units for residential purpose was permitted.

3. The petitioners would further aver that the 5th respondent who is the owner of the Flat A on the ground floor, and 6th respondent - her husband, have suddenly altered their residential flat and converted it as a commercial establishment and leased out the same in favour of the 7th respondent to run a Non-Vegetarian Hotel and as a consequence the residents of the other flat especially the petitioners are put to irreparable hardship and also nuisance and in this regard, they have submitted a representation to the respondents based on which, respondents 3 and 4 had issued De-Occupation notice dated 22.03.2017 to the respondents 5 to 7 and 5th respondent challenging the said notice filed W.P.No.13894 of 2017 and Hon'ble First Bench of this Court vide order dated 06.06.2017, after taking note of the submissions, granted liberty to file an Appeal/Revision under section 80 (A) of the Tamil Nadu Town and Country Planning Act 1971 with a further direction to dispose of the appeal on merits at an early date. The grievance expressed by the petitioners is that the De-Occupation notice has been

followed by any further follow-up action to set right the unauthorised / deviated construction of the property for which the original planning permission was given and hence came forward to file this writ petition.

4. The matter was listed for admission on 24.11.2017 and this Court ordered notice and in the light of the submission made about fact of the special revision/appeal not made known, directed the learned Special Government Pleader appearing for the respondents to get instructions and the matter is listed today.

5. The learned counsel appearing for the 5th respondent has drawn the attention of this Court to the counter affidavit and would submit that the 5th respondent filed an appeal / special revision No.14077/2017 before Secretary to Government Housing and Urban Department, Chennai-49 and it is pending. The learned counsel appearing for the 5th respondent would submit that the hotel business running on the premises in question is now temporarily closed.

6. Though the petitioner has prayed for a larger relief, this Court in the light of the above facts and circumstances and without going into the merits of the matter, directs the Secretary to Government Housing and Urban Development Department, Secretariat, Chennai-9, to put the petitioners as well as the 5th respondent on notice and thereafter, consider and dispose of appeal/special revision No.14077 of 2017 pending on its filed on merits and in accordance with law as expeditiously as possible and not later than eight weeks from the date of receipt of a copy of this order and till such time, the 7th respondent shall not carry on the eatery/hotel business in the premises in question.

7. The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-iv)

//True Copy//

Sub Assistant Registrar

kv/rka

To

1. The Member Secretary
Chennai Metropolitan Development Authority
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4. The Assistant Engineer,
Ward No.109, Area 24, Zone No.9,
Gill Nagar, Chennai - 600 094.

Copy to:-

The Secretary, Housing and
Urban Development Department,
Secretariat, Chennai-9.

+1cc to Mr.K.A.MARIAPPAN Advocate, S.R.No. 88044
+1cc to Mr.A.KUMAR Advocate, S.R.No. 87851
+1cc to Mr.S.SATHISH Advocate, S.R.No. 87769
+1cc to the Government Pleader, S.R.No. 88795

WP No.30303 of 2017

NRK(CO)
TR(09/01/2018)

सत्यमेव जयते

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