

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2017

CORAM

THE HON'BLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.5501 of 2017

D.Balasundram

.. Petitioner

Vs.

1. The Commissioner
Corporation of Chennai
Ripon Buildings
Chennai-3
2. The Assistant Engineer
Zone-XI, Circle- 153
Valasaravakkam, Chennai.
3. The Junior Engineer
Zone-XI, Circle- 153
Valasaravakkam, Chennai.
4. D.Chittibabu

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of Mandamus directing respondents 1 to 3 to take steps to demolish the unauthorized commercial construction situated in Survey No.325/1, Ramakrishna Nagar Main Road, Porur, Chennai- 600 116.

For Petitioner : Mr.N.Doraikannan

For Respondents : Mr.A.Nagarajan
for respondents 1 to 3

ORDER

(Order of the Court was made by the Acting Chief Justice)

Mr.A.Nagarajan, learned counsel takes notice for respondents 1 to 3.

2. Heard the learned counsel for the parties.

3. The petitioner has filed this writ petition seeking issuance of a writ of Mandamus directing respondents 1 to 3 to

take steps to demolish the unauthorized commercial construction situated in Survey No.325/1, Ramakrishna Nagar Main Road, Porur, Chennai- 600 116.

4. The petitioner alleges that his brother/fourth respondent has put up unauthorized commercial construction in petitioner's property. It is alleged that the construction is without any plan approval. The petitioner sent representation on 13.7.2015 to the respondent authorities. However, no action was taken till date. Hence, the present writ petition has been filed for the relief stated supra.

5. On hearing the learned counsel for the parties, we are of the firm view that the issue involved pertains to the alleged invasion of civil/property right of the petitioner and, therefore, the same must be resolved in a suit and not in a proceeding under Article 226 of the Constitution of India. However, considering the fact that the petitioner has made a representation on 13.7.2015 to respondent authorities, we direct the respondent authorities to consider the representation of the petitioner dated 13.7.2015 and do the needful in accordance with law, of course, after affording an opportunity of hearing to the fourth respondent.

The writ petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

sasi

To:

1. The Commissioner
Corporation of Chennai
Ripon Buildings
Chennai-3

+2cc to Mr.N.Doraikannan,Advocate sr.14291

+1cc to Mr.A.Nagarajan,Advocate sr.14620

W.P.No.5501 of 2017

rk(co)
ss(20/3/2017)