

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2017

CORAM :

The Hon'ble MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.P.No.4503 of 2017

and

W.M.P.No.4728 of 2017

1.Kanimozhi Mathi

2.K.Muthukumar

.. Petitioners

-vs-

1. The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai.

2. The Executive Engineer,
Greater Chennai Corporation,
Zone - 13, Adyar,
Chennai - 600 020.

3. The Assistant Engineer,
Division - 172,
Kotturpuram,
Chennai - 600 085.

4. Hyder Ali

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the third respondent to demolish the illegal construction carried out by the fourth respondent in violation of the plan approval in the property situated at Old No.27, New No.14, Varadhapuram 2nd street, Kottur, Chennai-600 085 as address stated as Door No.14/27, Karunanithi 3rd street (formerly Varadhapuram 2nd street) comprised in Town Survey No.32, 32 (part), New T.S.No.32/3, Block No.18 of Adyar Village, Mambalam-Guindy Taluk, Chennai District measuring about 990 sq. ft.

For Petitioners : Mr.V.Subramaniam
For Respondents : Mr.R.Arunmozhi for R1 to R3
Mr.R.Sagadevan for R4

* * * * *

ORDER

(Order of the Court was made by The Hon'ble Acting Chief Justice)

Heard Mr.V.Subramaniam, learned counsel for the petitioners;
Mr.R.Arunmozhi, learned counsel for respondent No.1 to 3 and
Mr.R.Sagadevan, learned counsel for respondent No.4.

2. The petitioners have filed this writ petition seeking issuance of a mandamus directing the third respondent to demolish the illegal construction carried out by respondent No.4 in violation of the plan approval in the property situated at Old No.27, New No.14, Varadhapuram 2nd street, Kottur, Chennai comprised in Town Survey No.32, 32(part), New T.S.No.32/3, Block No.18 of Adyar Village, Mambalam-Guindy Taluk, Chennai District.

3. It is the case of the petitioners that respondent No.4 has put up construction in violation of the approved plan and he is dumping dust and construction materials in front of petitioners house. When the petitioners questioned, respondent No.4 is abusing them. According to petitioners, respondent No.4 had purchased the property through fake documents and in this regard, the petitioners have also made a complaint with the Inspector General of Registration. Despite the petitioners brought to the notice of respondent No.3 about the illegal construction made by respondent No.4, there was no action in stopping the illegal construction. The petitioners have also made a representation on 04.11.2016 to respondent Nos. 1 to 3 requesting them to prevent the illegal construction put up by respondent No.4.

4. The learned counsel appearing for respondent Nos.1 to 3 submitted that 28.11.2016, notice under Section 56 (1) and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 was issued calling upon respondent No.4 to produce the copy of the approved plan. Respondent No.4 has failed to produce the copy of the approved plan. The learned counsel for respondent Nos.1 to 3 further submitted that on 27.2.2017 locking and sealing notice was issued to respondent No.4. As the respondent Nos.1 to 3 have taken action to lock and seal the premises, the writ petition may be disposed of.

5. The learned counsel for respondent No.4 submitted that only on the personal grudge, the petitioners have filed the writ petition and no construction activities are going on at site.

6. It appears that after filing of the writ petition, respondent Nos.1 to 3 have taken action against the building in question by issuing locking and sealing notice dated 27.02.2017 and that the construction activities are stopped.

7. While the learned counsel for the petitioners states that even after service of locking and sealing notice, the construction is going on, the same is seriously disputed by respondent No.4. This Court cannot go into such disputed facts. In any event, since respondent Nos.1 to 3 have already initiated action in accordance with the provisions of the Tamil Nadu Town and Country Planning Act, 1971, it is for respondent No.4 to challenge the same, if he so aggrieved, before the appropriate forum.

8. With the above observation, the writ petition is disposed of. No costs. Consequently, W.M.P.No.4728 of 2017 is closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1. The Commissioner,
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+ 1 cc to M/s. V. Subramaniam, Advocate , SR 12978

+ 1 cc to M/s. R. Arunmozhi Advocate, SR 12829

W.P.No.4503 of 2017

RSK (co)
sp/8/3



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