

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2017

CORAM

THE HON'BLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.6703 of 2017
and
W.M.P.Nos.7244 & 7245 of 2017

M.Jaikumar

.. Petitioner

Vs.

- 1 The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Salai,
Egmore, Chennai.
2. The Commissioner,
Corporation of Chennai,
Ribbon Building,
Chennai.
3. The Tahsildar,
Ayanavaram, Cooner,
Chennai - 600 023.
4. The Chairman,
TANGEDCO,
144, Anna Salai, Chennai - 600 002.
5. M/s.K.S.Golden House Construction,
rep. by its Proprietor Mr.A.Subbiah,
No.1/686, J.J.Nagar, Mogappair East,
Chennai - 600 037.

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of Mandamus directing the 1st and 2nd respondents to issue stop work notice to the 5th respondent for the premises at No.15, Bajanaikoil 3rd street, Villivakkam, Chennai - 600 049.

For Petitioner : Mr.R.Karunagaran

For Respondents : Mr.K.Rajasrinivas
for 1st respondent

Mr.A.Nagarajan
for 2nd respondent

Mr.M.K.Subramanian
Government Pleader
for 3rd respondent

ORDER

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

Mr.K.Rajasrinivas, learned counsel takes notice for the first respondent. Mr.A.Nagarajan, learned counsel takes notice for the second respondent. Mr.M.K.Subramanian, learned Government Pleader takes notice for the third respondent.

2. The petitioner has filed this writ petition seeking issuance of a Writ of Mandamus directing respondents 1 and 2 to issue stop work notice to the fifth respondent for the premises at No.15, Bajanai Koil 3rd Street, Villivakkam, Chennai.

3. It is the case of the petitioner that the fifth respondent started demolishing the old building situated in the petitioner's property and started constructing residential apartments. On bringing the said fact to the knowledge of the fifth respondent, they assured to give Rs.75.00 lakhs as compensation. The fifth respondent issued a cheque for Rs.60.00 lakhs, which was bounced. The petitioner has also lodged a police complaint against the fifth respondent and the same is under investigation. Hence, the petitioner seeks a direction to respondents 1 and 2 to issue stop work notice to the fifth respondent.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

5. The main grievance of the petitioner is that the fifth respondent encroached upon the petitioner's property and constructed residential apartments. On bringing the said fact to the notice of the fifth respondent, they assured to give Rs.75 lakhs as compensation. In this regard, the fifth respondent has given cheque for Rs.60 lakhs in favour of the petitioner on 19.9.2016 and agreed to pay the balance within two months. When the petitioner presented the cheque for collection, the same was bounced. Therefore, the petitioner

seeks direction to respondents 1 and 2 to issue stop work notice to the fifth respondent.

6. We are of the view that if there is any breach of assurance as averred in the writ petition, it is for the petitioner to work out his remedy before the appropriate forum and the same cannot be decided in this writ petition. Similarly, the alleged cheque bounce pleaded by the petitioner also cannot be decided in this writ petition. It may be noticed that already the petitioner has preferred a police complaint against the fifth respondent and the same is under investigation.

7. As far as the plea of violation of building plan and the encroachment of Corporation property to an extent of 1178 square property by the fifth respondent is concerned, it is for the Chennai Corporation to take action in accordance with law against the fifth respondent.

8. The writ petition is disposed of. No costs. However, it is made clear that if there is any violation in the building plan and encroachment of Corporation property, the authorities are free to take action in accordance with law. Consequently, W.M.P.Nos.7244 and 7245 of 2017 are closed.

Sd/-
Asst.Registrar (CS V.)

/true copy/

Sub Asst. Registrar

To:

- 1 The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Salai,
Egmore, Chennai.
2. The Commissioner,
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Ribbon Building,
Chennai.
3. The Tahsildar,
Ayanavaram, Cooner,
Chennai - 600 023.

4. The Chairman,
TANGEDCO,
144, Anna Salai, Chennai - 600 002.

+1 cc to Govt.Pleader,sr.17371

+1 cc to Mr.R.Karunagaran,advocate,sr.17169

+1 cc to Mr.K.Rajasrinivas,advocate,sr.17203

+1 cc to mr.A.Nagarajan,advocate,sr.17321.

nrjk(co)
krd 5/4

W.P.No.6703 of 2017



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