

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2017

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
and
THE HONOURABLE MR. JUSTICE N.SESHASAYEE

Writ Petition No. 21905 of 2017

J. Mahesh

.. Petitioner

Versus

1. The Commissioner
Chennai Metro Corporation
Chennai
2. The Zonal Officer
Zone No.8
Chennai Metro Corporation
Pulla Avenue
Chennai - 600 029
3. The Executive Engineer
Zone No.8, Chennai Metro Corporation,
Pulla Avenue
Chennai - 600 029
4. Narayanasamy ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 3rd Respondent to consider the representation dated 22.04.2017 given by the petitioner.

For Petitioner : Mr. V. Devendhiran

For Respondents : Mr. A. Nagarajan for RR1 to 3

Mr.S.Udayakumar for R4

ORDER

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

The petitioner has come forward with this writ petition praying to issue a Writ of Mandamus directing the third Respondent to consider his representation dated 22.04.2017 and to pass orders thereon.

2. The petitioner is a resident of No.62/107, Sivan Koil Street, Eswar Nagar, Kodambakkam. According to the petitioner, he is the owner of the land measuring 1800 square feet out of 6815 square feet where there was a super-structure in existence. According to the petitioner, taking advantage of the fact that the petitioner is an absentee landlord, the fourth respondent, who is an utter stranger, had fabricated and forged documents, trespassed into the property owned by him and started putting up an unauthorised construction over the property. The representation sent by the petitioner to the respondents 1 to 3 in this regard has not met with any response and therefore, the petitioner has filed the present writ petition.

3. The learned counsel for the petitioner submitted that in the representation dated 22.04.2017, the petitioner has requested the respondents 1 to 3 to take appropriate action to cancel the building planning permission, if any granted to the fourth respondent and to demolish the offending construction put up by him in the property in question as the fourth respondent has no right, interest or title over the property in question.

4. The learned standing counsel appearing for the respondents 1 to 3 submitted that on receipt of the representation dated 22.04.2017 from the petitioner, a site inspection was conducted on 09.09.2017. Thereafter, a locking & sealing and demolition notice dated 17.10.2017 was issued to the fourth respondent as contemplated under Section 56 and 57 read with Section 65 of The Tamil Nadu Town and Country Planning Act, 1971, as amended by Act 61 of 2008 requiring the fourth respondent to comply with the planning permission granted under Section 49 of the said Act. Therefore, according to the learned counsel for the respondents 1 to 3, nothing survives for adjudication in this writ petition.

5. The learned counsel appearing for the fourth respondent submits that on an earlier occasion, the petitioner has filed a civil suit against the fourth respondent but he did not pursue it, and hence, the suit was dismissed for default. The learned counsel for the fourth respondent also submitted that the fourth respondent has challenged the notice dated 17.10.2017 issued by the third respondent by filing a statutory appeal as contemplated under Section 80A of The Tamil Nadu Town and Country Planning Act and the same is pending before the appellate authority.

6. In the light of the above submission of the counsel for the fifth respondent, this Court is of the view that the grievance expressed by the petitioner in this writ petition has been ventilated and therefore, nothing survives in the writ petition for adjudication. The writ petition is therefore closed. No costs.

/sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

rsh/kas

To

1. The Commissioner
Chennai Metro Corporation
Chennai
2. The Zonal Officer
Zone No.8
Chennai Metro Corporation
Pulla Avenue
Chennai 600 029
3. The Executive Engineer
Zone No.8, Chennai Metro Corporation,
Pulla Avenue
Chennai 600 029

+1 CC to Mr. A. Nagarajan , Advocate Sr.No. 78907
+1 CC to Mr. S. Udayakumar , Advocate Sr.No. 78951

सत्यमेव जयते

WP No. 21905 of 2017

MD: 27/11/2017

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