

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2017

CORAM

THE HON'BLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.16004 of 2015, 23083 and 12117 of 2014

W.P.No.16004 of 2015:

Kannan Balachandran

... Petitioner

Vs.

1. The State of Tamil Nadu
rep. By its Secretary to Government
Housing and Urban Development Department
Secretariat, Chennai - 600 009.
2. The State of Tamil Nadu
rep. By its Secretary to Government
Home Department (Fire and Rescue Services)
Secretariat, Chennai - 600 009.
3. The State of Tamil Nadu
rep. By its Secretary to Government
Department of Labour and Employment
Secretariat, Chennai - 600 009.
4. Corporation of Chennai
rep. By its Commissioner
Rippon Buildings
Chennai - 600 003.
5. Chennai Metropolitan Development Authority
rep. By its Member Secretary
Thalamuthu Natarajan Buildings
Egmore, Chennai - 600 008.
6. Pothys
rep. By its Managing Director, S.Ramesh
Old No.66, New No.84/85
Usman Road, T.Nagar, Chennai - 17.

... Respondents

W.P.No.23083 of 2014:

Kannan Balachandran

... Petitioner

Vs.

1. The State of Tamil Nadu
Rep by its Secretary to Government
Housing and Urban Development Department
Secretariat, Chennai - 9.
2. The State of Tamil Nadu
Rep by its Secretary to Government
Home Department (Fire and Rescue Services)
Secretariat, Chennai - 9.
3. Corporation of Chennai
Rep by its Commissioner
Rippon Buildings Chennai - 3.
4. Chennai Metropolitan Development Authority
Rep by its Member Secretary
Thalamuthu Natarajan Buildings
Egmore, Chennai - 8.
5. Saravana Stores
Rep By Y.Pondurai
Old No.128, 129, 130
North Usman Road, T.Nagar
Chennai - 17.
6. The Chennai Silks
Rep by its Managing Director TK Chandran
No.67 Usman Road T. Nagar
Chennai - 17.
7. Saravana Gold House
Rep by S.Yogarathinam
No.115 to 117, Old No.15
Usman Road, T. Nagar
Chennai - 17.
8. Sri Kumaran Gold House
Rep by its Managing Director, TK Chandran
No.55 (Old No.65 and 66) Usman Road
T.Nagar, Chennai - 17.
9. Saravana Stores
Rep by Selvarathinam
No.75 and 76 Usman Road
T. Nagar, Chennai - 17.

10.Nalli Trust
Old No.119 New No.100
Usman Road T. Nagar
Chennai - 17.

11.Rathna Stores
Rep by Sivasubramaniam
No.73/1 and 73/2
Usman Road T. Nagar Chennai - 17.

12.Jayachandran Textiles
Rep by Chellappa
32 to 35 Ranganathan Street
T. Nagar Chennai - 17.

13.RMKV Stores
Rep by RM. K.Sivakumar
125-127 Usman Road
Panagal Park, T. Nagar, Chennai - 17.

14.Pothys
15 Nageswara Rao Road and
Usman Road, Chennai - 17.

15.YVK Charities
Rep by its Secretary
No.102 Usman Road
T.Nagar, Chennai - 17.

... Respondents

W.P.No.12117 of 2014:

Kannan Balachandran

... Petitioner

Vs.

1. The State of Tamil Nadu
rep. By its Secretary to Government
Housing and Urban Development Department
Secretariat, Chennai - 600 009.

2. The State of Tamil Nadu
rep. By its Secretary to Government
Home Department (Fire and Rescue Services)
Secretariat, Chennai - 600 009.

3. Corporation of Chennai
rep. By its Commissioner
Rippon Buildings
Chennai - 600 003.

4. Chennai Metropolitan Development Authority
rep. By its Member Secretary
Thalamuthu Natarajan Buildings
Egmore, Chennai - 600 008.

5. G.R.Thangamaligai Jewellery Shop
rep. by G.R.Radhakrishnan & G.Mahalakshmi
134 to 136 (Old Nos.103 and 104)
Usman Road, Chennai - 600 017.

... Respondents

PRAYER in W.P.No.16004 of 2015: Petition under Article 226 of the Constitution of India for issuance of a writ of Mandamus directing respondents 4 and 5 to take steps towards the demolition of the unauthorized construction put up in the premises occupied by the sixth respondent in violation of the planning permission accorded by the fourth respondent, the National Building Code, 2005 and the CMDA Rules, in accordance with law.

PRAYER in W.P.No.23083 of 2014: Petition under Article 226 of the Constitution of India for issuance of a writ of Mandamus directing respondents 3 and 4 to take steps towards the locking and sealing and/or demolition of the unauthorised constructions put up by respondents 5 to 15 in violation of the planning permission accorded to them by the 3rd respondent the National Building Code 2005 and the CMDA Rules in accordance with law.

PRAYER in W.P.No.12117 of 2014: Petition under Article 226 of the Constitution of India for issuance of a writ of Mandamus directing the 4th respondent to demolish the unauthorised constructions put up by the 5th respondent in violation of the planning permission accorded to it by the 3rd respondent the National Building Code 2005 and the GMDA Rules.

For Petitioner : Mr.Sornam Rajagopal
in all writ petitions for M/s.Suhrith Parthasarathy

For Respondents : Mr.R.Muthukumarasamy
Advocate General
assisted by Mr.C.Johnson
for 5th respondent in
W.P.No.16004/2015 and 4th
respondent in W.P.No.23083 of 2014

Mr.M.K.Subramanian
Government Pleader
for respondents 1 to 3
in W.P.No.16004/2015 and
respondents 1 and 2 in
W.P.No.23083/2014

Mr.Arunmozhi
for 4th respondent in
W.P.No.16004/2015 and 3rd
respondent in W.P.No.23083/2014

Mr.Kartash Vasdev, Senior Counsel
for Mr.R.Mohan for 6th respondent
in W.P.No.16004/2015

Mr.P.Vasudevan for 5th respondent
in W.P.No.23083/2015

Mr.D.S.Rajasekaran for respondents
6 and 8 in W.P.No.23083/2015

Mr.K.G.Sentilkumar for 7th
respondent in W.P.No.23083/2015

Mr.K.Harishankar for 10th
respondent in W.P.No.23083/2015

M/s.Ram and Ram for 11th respondent
in W.P.No.23083/2015

Mr.Asvini Kumar for Mr.R.Mohan
for respondents 12 to 15 in
W.P.No.23083/2015

Mr.R.Vijayakumar
Addl. Government Pleader
for 1st respondent in W.P.No.12117
of 2014

Mr.Rameshwar
for 2nd respondent in W.P.No.12117
of 2014

Mr.K.Soundarajan
for 3rd respondent in W.P.No.12117
of 2014

Mr.N.Sampath
for 4th respondent in W.P.No.12117
of 2014

Mr.R.Mohan
for 5th respondent in W.P.No.12117
of 2014

COMMON ORDER

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

Heard the learned counsel for the parties.

2. In these writ petitions, the petitioner in effect seeks a direction against the Chennai Metropolitan Development Authority and the Corporation of Chennai to demolish the unauthorized construction put up by the private respondents in gross violation of the the planning permission and other relevant provisions of law.

3. The Secretary to Government, Housing and Urban Development Department, filed a report before this Court today. In the said affidavit, it is averred that the government constituted a Committee under the Chairmanship of Justice Rajeswaran to frame rules and guidelines under Section 113-C of the Tamil Nadu Town and Country Planning Act, 1971 for regularization of unauthorized buildings and the report of the said Committee was submitted to the Government on 7.10.2015. It is stated that in response to the said report, various objections and suggestions were received from the public and thereafter the Draft Rules were prepared and presented in a meeting held under the Chairmanship of the Chief Secretary to the Government. It is stated that since the issue involved has huge implications on the general public various issues which were not addressed in the report of the Committee are also being considered.

3. It is further stated in the said report that pursuant to the directions issued by this Court on 18.7.2016 and 1.11.2016 in W.P.No.26339 of 2014 to the CMDA to obtain the views of the Monitoring Committee before finalizing the Rules and Guidelines for exemption of buildings under Section 113-C of the said Act, periodical meetings were held and a Sub Committee was constituted to respond to the specific exemptions suggested by the Committee under the Chairmanship of Justice Rajeswaran. The said Sub Committee submitted its report on 5.1.2017. Thereafter, another meeting was convened under the Chairmanship of the Chief Secretary with the participation of high level officers of the stakeholders departments to finalize the rules and guidelines for effective implementation of Section 113-C of the said Act. In fine, due to the prevailing political situation, two months time was sought to notify the rules and regulations.

4. We find from the abovesaid report that the issue is in active consideration by the respondent/authorities. In view of the categorical undertaking given by the Secretary to the Government, Housing and Urban Development Department that the rules and guidelines for effective implementation of Section

113-C of the said Act would be notified within two months, these writ petitions are disposed of. The respondent/authorities shall remain bound by the said undertaking. We make it clear that subsequent to the notification of rules and guidelines, the respondent/authorities shall proceed in accordance with law against the unauthorized constructions alleged to have put up by the private respondents in accordance with law. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

sasi

To:

1. The Secretary to Government
State of Tamil Nadu
Housing and Urban Development Department
Secretariat, Chennai - 600 009.
2. The Secretary to Government
State of Tamil Nadu
Home Department (Fire and Rescue Services)
Secretariat, Chennai - 600 009.
3. The Secretary to Government
State of Tamil Nadu
Department of Labour and Employment
Secretariat, Chennai - 600 009.
4. The Commissioner
Corporation of Chennai
Rippon Buildings
Chennai - 600 003.
5. The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Buildings
Egmore, Chennai - 600 008.

+2cc's to Mr.K.Harishankar, Advocate, S.R.No.10822
+1cc to Mr.K.Soundararajan, Advocate, S.R.No.11042
+1cc to Mr.C.Johnson, Advocate, S.R.No.11334
+1cc to Mr.R.Mohan, Advocate, S.R.No.10540

W.P.Nos.16004 of 2015, 23083 and 12117 of 2014

EV(CO)
CA(04/05/2017)