

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.08.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.23199/2017

&

WMP.No.24313/2017

S.A.Jhan Mohammed
rep. by Power of Attorney
Mr.J. Ameer Shahul

..Petitioner

Versus

- 1.The Member Secretary
Chennai Metropolitan Development
Authority, Gandhi Irwin Salai
Egmore, Chennai 600 008.
- 2.M/s.Sri Sakthi Shelters
No.48, Baggyalakshmi Nagar
Alapakkam, Chennai 600 116.
- 3.M/s.Nortless Service Apartment Private Ltd.,
rep.by its Chief Executive Officer
E-Block, Sri Jeyandra Colony,
4/360, Rajiv Gandhi Salai, 6th Main Road
Kandanchavadi, Chennai 600 076.
- 4.The Commissioner
Greater Chennai Corporation
Rippon Building, Chennai 600 003.
- 5.The Assistant Executive Engineer
Division 198-Zone 15, Greater Chennai
Corporation, Chennai - 119.

..Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for records relating to the 5th respondent's proceedings in notice No.41/2017/Dn-198 dated 19.08.2017, to quash the same and to consequently direct the

respondents to consider the material evidence those that may be produced and pass appropriate orders including regularization if permissible.

For Petitioner : Mr.L.Chandrakumar
For R1 : Mr.N.Sampath
For RR 4 & 5 : Mr.A.Nagarajan

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.N.Sampath, learned Standing counsel accepts notice on behalf of the 1st respondent and Mr.A.Nagarajan, learned Standing counsel accepts notice on behalf of the respondents 4 and 5.

2 The 3rd respondent, on an earlier occasion, filed WP.No.15520/2017 against the respondents 1, 4 and also against the writ petitioner herein, praying for issuance of a writ of mandamus, directing the 1st respondent therein to forthwith to consider the representation dated 25.05.2016 and take action in accordance with law. This Court, vide order dated 14.03.2017, has disposed of the said writ petition, by directing the respondents 1 and 2 therein to cause a local inspection within a fortnight from the date of receipt of a copy of that order and if any unauthorized construction and / or unauthorised use is found as alleged or in any other manner, appropriate action in accordance with law, permitted them to initiate action in accordance with law after putting the all concerned on notice, particularly, the 3rd respondent therein / writ petitioner herein and further directed that the said exercise shall be completed within a period of two months thereafter.

3 Mr.L.Chandrakumar, learned counsel for the petitioner would submit that despite a direction issued by this Court in the above cited order to put the petitioner on notice and also afford an opportunity, straightaway issued the impugned Lock and Seal notice dated 19.08.2017 came to be issued and would further add that the writ petitioner, viz., S.A. Jhan Mohammed, is on a Haj Pilgrimage and is likely to return to India on 08.09.2017 and only after his return, the approved plan can be submitted. Learned counsel has also drawn the attention of this Court to the notice dated 21.08.2017 sent by the 5th respondent and would submit that the said notice ought to have been issued before passing the impugned order and hence, prays for interference.

4 Per contra, Mr.A.Nagarajan, learned Standing Counsel appearing for the respondents 4 and 5 would submit that action is being taken strictly in accordance with law in terms of the above cited order passed by this Court.

5 This Court has considered the rival submissions and also perused the materials placed before it.

6 This Court, while disposing of WP.No.15520/2017 on 14.03.2017, has directed the respondents 1 and 2 therein, to cause local inspection within a fortnight and thereafter, put the 3rd respondent / writ petitioner herein on notice and after affording an opportunity, to take action in accordance with law. However, the 5th respondent herein, without putting the 3rd respondent in WP.No.15520/2017 / writ petitioner herein on notice, had straightaway issued the impugned lock and seal notice dated 19.08.2017 and having realised the mistake, had issued another notice dated 21.08.2017, directing the petitioner herein to be present before him for personal hearing. In the considered opinion of this Court, the course adopted by the 5th respondent is unsustainable and it is also not in compliance with the above cited order.

7 In the result, the writ petition is partly allowed and the impugned order dated 19.08.2017 passed by the 5th respondent is quashed with a further direction that the petitioner shall respond to the notice dated 21.08.2017 sent by the 5th respondent in the form of reply / representation enclosing relevant and necessary documents including a copy of the approved plan on or before 13.09.2017 and the 5th respondent, on receipt of the same, shall put the respondents 2 and 3 on notice and thereafter, take action on merits and in accordance with law within a further period of four weeks thereafter and communicate the decision taken, to the petitioner as well as to the respondents 2 and 3. No costs. Consequently, the connected miscellaneous petition is closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

AP

To

- 1.The Member Secretary
Chennai Metropolitan Development
Authority, Gandhi Irwin Salai
Egmore, Chennai 600 008.
 - 2.The Commissioner
Greater Chennai Corporation
Rippon Building, Chennai 600 003.
 - 3.The Assistant Executive Engineer
Division 198-Zone 15, Greater Chennai
Corporation, Chennai - 119.
- + 1 cc to MR. L.Candrakumar, Advocate SR.62017

WP.No.23199/2017

CS-IV
EU 5/09/17



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