

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2017

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE M.SUNDAR

W.P. No.25355 of 2015
and M.P.Nos.1 and 2 of 2015

1.D.Gopalakrishnan
2.R.Vadivelu

...Petitioners

-vs-

- 1.The Commissioner,
Corporation of Chennai,
Ripon Building, Chennai 600 003.
- 2.The Member-Secretary,
Chennai Metropolitan Development
Authority, 1, Gandhi-Irwin Road,
Egmore, Chennai 600 008.
- 3.The Regional Joint Commissioner (South),
Corporation of Chennai,
115, Muthulakshmi Salai,
Adayar, Chennai 600 020.
- 4.The Executive Engineer (TP-Enforcement
Cell), Zone XV, O/o.Regional Jt.
Commissioner (South), Corporation of Chennai,
115, Muthulakshmi Salai,
Adayar, Chennai 600 020.
- 5.The Zonal Officer,
Zone XV, Corporation of Chennai,
Sholinganallur 600 119.
- 6.The Assistant Engineer,
Corporation of Chennai, Division 192,
Neelangarai, Chennai 600 115.

7.TANGEDCO (TNEB),
1, Panchayat Building,
Main Road, Neelankarai,
Chennai 600 115.

8.Balasubramanian

9.Sri Kapaleeswarar Nagar Welfare
Association, I North Main Road,
Sri Kapaleeswarar Nagar,
Neelankarai, Chennai 600 115,
Rep. by President.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct respondents 1 to 6 to fully implement the 'Lock and Seal' notice No.5082 dated 10.7.2014 issued by the respondents 4 to 6 to the 8th respondent and consequently, demolish the constructed building of the 8th respondent in Plot 462, 8th South Cross Street, 2nd South Main Road, Kapaleeswarar Nagar, Neelankarai, Chennai 600 115 (earlier 600 041) and restored to its original status as per the provisions of Section 56 and 57 of the Town and Country Planning Act, 1971 (as amended in 2008).

For Petitioner : Mr.Anirudh Krishnan

For Respondents : Mr.K.Venkatramani
Addl. Adv. General, assisted by
Mr.R.Arunmozhi for RR 1, 3 to 6

: Mr.C.Johnson for R-2

: Mr.G.Arumugaraja for R-8

: No appearance for R-7

ORDER

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

The allegation of the petitioners is that the eighth respondent has deviated from the planning permission for construction at Plot No.462, 8th South Cross Street, II Main Road, Sree Kapaleeswarar Nagar, Neelankarai, Chennai. The Corporation of Chennai / first respondent issued a stop work notice / notice calling for approved plan on 03.07.2014 and thereafter issued a notice on 10.07.2014 calling upon the eighth respondent to remove the deviations within a period of thirty (30) days. However, no further action is alleged to have been taken by the Corporation.

2. On the first call, when the counsel for the eighth respondent submitted that a revised plan had been submitted, Mr.D.Murthy, Assistant Engineer / the sixth respondent, came forth to assist the counsel and categorically stated before us that a revised plan had been received and forwarded. On our query, he stated that it was forwarded two (2) months back. On our further query as to whom it was forwarded and for what purpose, there was no answer. We were inclined to call the Commissioner of Corporation on account of lack of assistance, but a pass-over was sought.

3. On the second call, learned Additional Advocate General appears and seeks to state that no revised plan has been submitted by the eighth respondent.

4. If the aforesaid being the correct position, then there can be little doubt that the officer present was endeavouring to mislead this Court. The first respondent / Commissioner is requested to look into the matter and take appropriate action in respect of the officer for endeavouring to mislead the Court.

5. In so far as any action is concerned, it is for the eighth respondent to state as to when they filed the revised plan and intimate the same within two days to the Zonal Officer / the fifth respondent. We may note that the CMDA / the second respondent states it has nothing to do with the issue. Thus, the action has to be taken only by the Corporation.

6. The necessary exercise in accordance with law be taken and concluded within a maximum period of two (2) months from today by the Corporation.

7. Writ petition, accordingly, stands disposed of. No costs. Consequently, M.P.Nos.1 and 2 of 2015 stand closed.

List for compliance on 17.03.2017, both in respect of our direction for necessary action against the officer and in respect of property in question.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

sra

To

- 1.The Commissioner,
Corporation of Chennai,
Ripon Building, Chennai 600 003.
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Chennai Metropolitan Development
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Neelankarai, Chennai 600 115.
- 7.TANGEDCO (TNEB),
1, Panchayat Building,
Main Road, Neelankarai,
Chennai 600 115.

Copy to

- 1.The Section Officer,
Writ Section,
High Court, Madras.

+1cc to Mr.C.Johnson, Advocate SR.No.2395
+1cc to Mr.R.Arulmozhi, Advocate SR.No.2323

W.P.No.25355 of 2015

GJI (CO)
GN(20/01/2015)