

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:05.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

W.P.No.17003/2017 & WMP.No.18460/2017

M/s.Kesari Kuteeram Association
[Reg No.893 dated 21.08.2000] rep
by its President Mr.K.B.R.Murthy

Petitioner

Vs

1.The Member Secretary
Chennai Metropolitan Development
Authority, Egmore, Chennai 600 008.

2.The Commissioner & Special Officer
Greater Chennai Corporation
Rippon Buildings, Chennai 600 003.

3.R.Ravi Krishnan

Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the 1st and 2nd respondents to take steps to demolish the unauthorised construction made in the 8th floor of M/s.Kesari Kuteeram Rams, No.22, Old No.27, West Cott Road, Royapettah, Chennai 600014, contrary to the approved building plan vide permission bearing No.2169 dated 09.05.1986 and building plan bearing No.307/86 dated 24.07.1986.

For Petitioner : Mr.v.Suthakar

For R1 : Mr.N.Sampath

For R2 : Mr.R.Arunmozhi

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.R.Arunmozhi, learned Standing Counsel accepts notice on behalf of the 2nd respondent.

2.The petitioner in the affidavit filed in support of this writ petition would aver among other things that the deponent of the affidavit is the President of M/s.Kesari Kuteeram Rams Association [Registration No.893/2000] and the members of the said Association are the owners of the Apartment, viz., M/s.Kesari Kuteeram Rams, bearing Door No.22, Old No.27, West Cott Road, Royapettah, Chennai-600014. The petitioner would further aver that the 1st respondent has accorded planning permission for putting up construction of Ground + 7 floors vide Permission bearing No.2169 dated 09.05.1986 and Building Plan Approval bearing No.307/86 dated 24.07.1986. The grievance now expressed by the petitioner is that as per the Planning Permission, the 8th floor is to be left as open terrace and however, the 3rd respondent, who is the son of the builder, viz., Mr.K.V.Ram, is putting up permanent structure and thereby, denying the members of the petitioner Association / residents of the Flats, their access to the said floor. The petitioner - Association, in this regard, has also submitted representations dated 30.05.2017 and 29.06.2017 to the respondents 1 and 2 and despite receipt and acknowledgment, no action has been taken and therefore, came forward to file the present writ petition.

3.Mr.V.Suthakar, learned counsel for the petitioner has drawn the attention of this Court to the photographs annexed in the typed set of documents and would submit that as per the Planning Permission, the eighth floor is to be left as a open terrace and in utter violation and disregard to the Planning Permission and Building Permit, the 3rd respondent is putting up permanent structure and in that event, access to the said floor by the residents of the flats/members of the petitioner - Association will definitely be affected and prays for appropriate orders.

4.Per contra, the learned Standing Counsel appearing for the 1st respondent would submit that the representations submitted by the petitioner will be considered and disposed of in accordance with law, after putting the 3rd respondent on notice.

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

6.Though the petitioner prays for a larger relief, this

Court, in the light of above facts and circumstances and without going into the merits of the contents of the representations as well as the averments made in this writ petition, directs the 1st respondent to put the 3rd respondent on notice and thereafter, consider and dispose of the petitioner's representations dated 30.05.2017 and 29.06.2017 respectively, on merits and in accordance with law and pass orders within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to the 3rd respondent herein.

7.The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

AP

To

- 1.The Member Secretary
Chennai Metropolitan Development
Authority, Egmore, Chennai 600 008.
- 2.The Commissioner & Special Officer
Greater Chennai Corporation
Rippon Buildings, Chennai 600 003.

+1cc to M/s.N.Sampath, Advocate SR.No.46512
+1cc to M/s.R.Arunmozhi, Advocate SR.No.46692
+1cc to M/s.V.Suthakar, Advocate SR.No.47028

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MP (CO)
GN(18/07/2017)