

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:10.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

W.P.No.17379/2017

Mr.Asif Ahmed Khan

.. Petitioner

Vs

1.The Commissioner
Corporation of Chennai
Ripon Building, Park Town,
Chennai 600 003.

2.The Executive Engineer
Corporation of Chennai
Zone XIII Division, Chennai
Middle School, Ramakrishnapuram,
Chennai 600 004.

3.Colourhome Developers Private Ltd.,
Having its office at Old No.23 [New No.19]
W-Block, 7th Street, Anna Nagar
Chennai 600040.

4.Mr.G.Camoo

5.Mr.T.Ramanan

.. 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 seal and demolish any structure put up in violation of the 1st respondent sanctioned plan dated 26.07.2011 in File No.COC/7035/11 on the premises at Plot No.9 [Old No.24], New No.59, Kalakshetra Road, Tiruvanmiyur, Chennai 600 041.

For Petitioner : Mr.R.Thanjan
For RR 1 & 2 : 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.A.Nagarajan, learned Standing Counsel accepts notice on behalf of the respondents 1 and 2 / Corporation of Chennai.

2 The petitioner claims that he is the owner of the Apartments S-2 along with 1/4th Undivided Share in the land admeasuring to an extent of 2400 sq.ft., in Plot No.9, Old No.24, New No.59, Kalakshetra Road, Tiruvanmiyur, Chennai-41, comprised in S.No.124/1 Part [TS No.47, Tiruvanmiyur Village, Chennai District] and vide sanctioned plan bearing No.COC/7035/2011 dated 26.07.2011, the Corporation of Chennai had accorded sanction to put up a premises as a residential complex comprising of four Flats in total with two flats, each

on the first and second floors with a sanctioned plot coverage area of 70% only with car parking slot as well as a meter room, motor room and security room in the stilt area. Thus, according to the petitioner, apart from the four residential apartments, no other construction can be permitted to be put up on the common areas belonging to the four apartment owners. The petitioner would further state that the possession of the apartment was given to him on 08.12.2012 and though no construction is permissible in the common area, some unscrupulous persons are trying to put unauthorized construction in the said area.

3 The learned counsel for the petitioner would submit that the petitioner, on an earlier occasion, filed OS.No.1457/2013 on the file of the learned IV Assistant City Civil Judge, Chennai, against the respondents 3 to 5, praying for a declaration, declaring that any construction/alteration/use of the suit schedule property in violation of the sanctioned plan issued by the Corporation of Chennai, dated 26.07.2011, is illegal and also prayed for permanent injunction, restraining the defendants from alienating/encumbering/otherwise using the common are identified in the said sanctioned plan and the suit came to be decreed on 19.12.2016 and the execution is also levied in

EP.No.831/2017 and the same is pending. It is also contended by the learned counsel that despite the said decree has become final and the execution petition is also pending, respondents 3 to 5 are proceeding with the construction in the common area without any authorisation or permission and in quite contravention of the sanctioned plan and in this regard, a legal notice was also sent on behalf of the petitioner on 15.02.2017 to the respondents 1 and 2 and in spite of receipt and acknowledgment, no action has been taken whatsoever and therefore, the petitioner is constrained to approach this Court by filing the present writ petition.

4 The Court heard the submissions of Mr.A.Nagarajan, learned Standing counsel appearing for the respondents 1 and 2 and also perused the materials placed before it.

5 Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the same, directs the 2nd respondent to put the respondents 3 to 5 on notice and thereafter, shall consider and dispose of the petitioner's representation in the form of legal notice dated 15.02.2017 on merits and in accordance with law and pass appropriate

orders within a period of four 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 respondents 3 to 5 herein.

6 The writ petition stands disposed of with the above direction. No costs.

[M.S.N., J.,]

[N.S.S., J]

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Internet

.. No
.. Yes

AP
To

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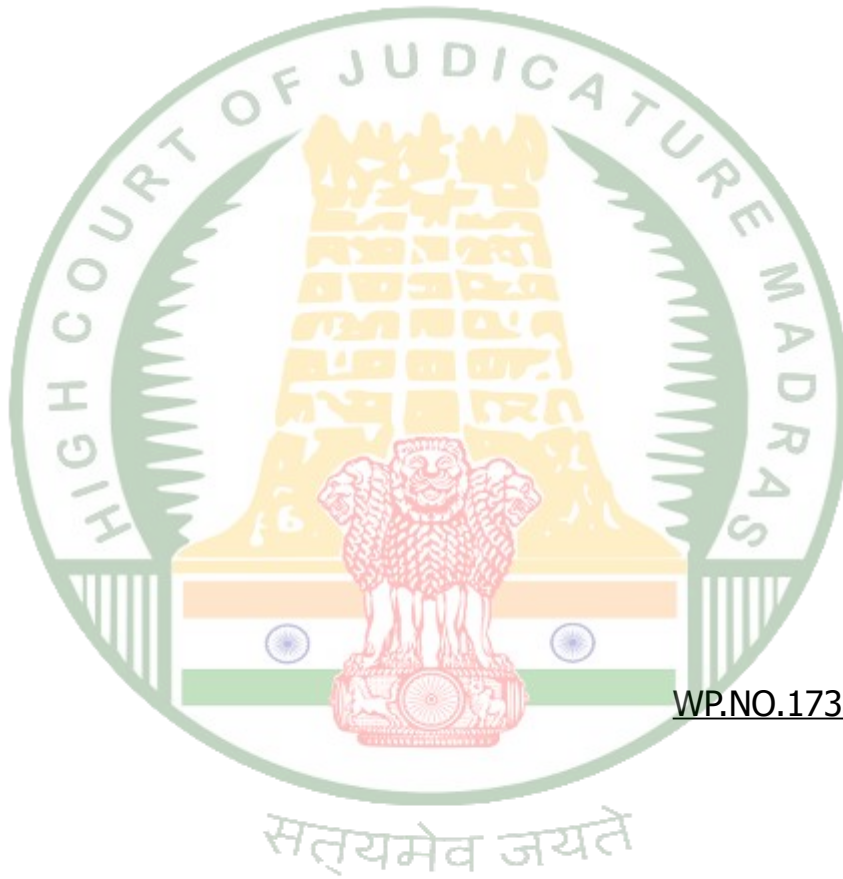
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M.SATHYANARAYANAN, J.,

AND

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