

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE

W.P No.27740 of 2017

Mr.M.Vijay Bhaskar

...Petitioner

Vs

1. The Member Secretary,
CMDA, No.1, Thalamuthu Natarajar Maligai,
Gandhi Irvin Road, Egmore, Chennai-600008.
2. The Member Secretary,
CMDA Enforcement Cell,
No.1, Thalamuthu Natarajar Maligai,
Gandhi Irvin Road, Egmore, Chennai-600008.
3. The Commissioner,
Corporation of Chennai, Ribbon Building
Chennai.
4. Ms.Sharma Usha

..Respondents

Prayer:- The Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the second respondent to consider the representation dated 16.09.2017 made by the petitioner and to demolish the unauthorized building constructed in 3rd floor and open Terrace/4th floor at Door No.8/16, Karunanithi 3rd street, Kotturpuram, Chennai-85 (Zone New No.13, Old No.9, Ward New No.172, Old No.138) and to pass orders.

For Petitioner : Mr.S. Nagarajan
For Respondents 1 & 2 : Mr. A. Kumar
For Respondent 3 : 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.Kumar, learned Standing Counsel accepts notice

on behalf of the respondents 1 and 2 and Mr.A.Nagarajan, learned Standing counsel accepts notice on behalf of the 3rd respondent.

2. The petitioner filed an affidavit in support of this writ petition would aver among many other things submit that one Mr.Somasundaran and six others were the absolute owners of the vacant land of the property situated at D.No.8/New No.16, Block no.18, Karunanidhi 3rd Street, Kotturpuram, Chdnai-600 085 comprised in T.S.No.122/45 admeasuring to an extent of 5046 square feet and they had executed a Power of Attorney in favour of Mrs.G.Vimala and Mr.Umesh M.Tahilramani on 11.10.1995 which was registered vide document No.333 of 1995, to sell the property by constructing flats.

3. It is further averred that Mrs.G.Vimala and others got planning permission and building approval in PPA No.4741 of 1997 and B.A.No.4882 of 1997 on 11.03.1990 and as per the approval, construction of ground floor and first floor is only permitted.

4. It is also stated by the petitioner that G.Vimala and Mr.Umesh M.Tahilramani who were the Directors of the M/s.Adware construction company, constructed the semi finished building and sold the Ground Floor + First Floor in favour of one Mr.S.Gopalan and the petitioner had purchased the ground floor and first floor admeasuring 2208.5 sq.ft. and 1089 sq.ft of undivided share of land from the said Mr.S.Gopalan, through a registered Sale Deed bearing document no.439 of 2017 dated 01.03.2006, registered on the file of the office of the Sub-Registrar, Adyar and after the said purchase, the petitioner and his father completed the internal modeling construction work and occupied the house and in enjoyment of the same and necessary stamp charges have also been paid by them.

5.It is a specific case of the petitioner that the Power Of Attorney granted in favour of the Mr.Umesh M.Tahilramani was canceled by the Principal on 31.12.2002 and the same registered before the Sub Registrar, Villivakkam, Chennai vide document No.989 of 2002 and thereafter, Mr.Umesh M Tahilramani, illegally executed a Sale Deed in favour of the 4th respondent on 08.02.2008. On 08.02.2008, according to the petitioner the Sale Deed is not registered and no registration is accorded in favour of the purchasers. It is also pointed out by the petitioner that Mr.Umesh M Tahilramani (who seized to be a director of M/s.Adware Construction since 11.12.2001 and it is also published by Registrar of companies on 06.07.2007) and as such, the execution of sale deed by Mr.Umesh M.Tahilramani in faovur of the 4th respondent is also un-sustainable.

6. The fourth respondent based upon the illegal Sale Deed, who has no right over the property, has started putting up

construction in the form of 3rd floor and a room constructed measuring about 77 sq.ft was constructed in the open terrace without obtaining any planning permission and building permission. In this regard, the petitioner has submitted his representation dated 16.09.2017 to the respondents 1 to 3, in spite of receipt and acknowledgment, so far as no orders have been passed and hence, the petitioner is constrained to approach this Court by filing the writ petition.

7. The Court heard the submissions of Mr.A.Kumar, learned standing counsel appearing for the respondents 1 and 2 and Mr.A.Nagarajan, learned Standing counsel appearing for the 3rd respondent and also perused the materials placed before this Court.

8. Though the petitioner has prayed for a larger relief, this Court, in the light of the facts and circumstances and without going into the merits of the claim projected by the petitioner, either in his representation or in this writ petition, directs the 2nd respondent to put the 4th respondent on notice and thereafter, cause a joint inspection in the presence of the petitioner and the 4th respondent or their authorised representatives and take action on merits and in accordance with law and pass orders within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken, to the respondent 1 and 4 .

9. The writ petition stands disposed of accordingly. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

rka

To

1. The Member Secretary,
CMDA, No.1, Thalamuthu Natarajar Maligai,
Gandhi Irvin Road, Egmore, Chennai-600008.
2. The Member Secretary,
CMDA Enforcement Cell,
No.1, Thalamuthu Natarajar Maligai,
Gandhi Irvin Road, Egmore, Chennai-600008.

3. The Commissioner,
Corporation of Chennai, Ribbon Building
Chennai.

+ 1 cc to Mr.S. Nagarajan, Advocate,SR.76334

+ 1 cc to M/s.A.Nagarajan, Standing Counsel to Chennai
Corporation ,SR.76604

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NMI (CO)
NR 30/11/2017



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