

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:19.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

W.P.No.18276/2017

R.Manimekalai .. Petitioner

Vs

1.The Secretary to Government
Housing & Urban Department
Secretariat, Government of Tamil Nadu
Fort St George, Chennai 600 009.

2.The Member Secretary
CMDA, Thazhamuthu Natarajan Building
No.1, Gandhi Irwin Road, Egmore
Chennai 600 008.

3.The Commissioner
Greater Chennai City Municipal Corporation
Rippon Buildings, Chennai 600 003.

4.G.R.Umadevi .. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the 2nd and 3rd respondents to take appropriate action against the unauthorised construction put up by the 4th respondent herein in NO.8/3, Kennady II Street, Mylapore, Chennai 600 004.

For Petitioner	: Mr.T.Saikrishnan for M/s.Sai, Bharath and Ilan
For R1	: Mr.R.Vijayakumar, AGP
For R2	: Mr.N.Sampath
For R3	: 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.R.Vijayakumar, learned Additional Government Pleader accepts notice on behalf of the 1st respondent ; Mr.N.Sampath, learned Standing counsel accepts notice on behalf of the 2nd respondent and Mr.A.Natarajan, learned Standing counsel accepts notice on behalf of the 3rd respondent.

2 The petitioner, in the affidavit filed in support of this writ petition would aver among other things, she along with her mother-in-law, viz., Tmt.Kannathal, are the absolute owners of the land admeasuring to an extent of 1502 sq.ft., comprised in OS.Nos.2081 and 2082 and RS.No.1659 and CC No.248, of Mylapore Village, along with a superstructure bearing Door No.8/2, 8/2A, 8/2B, Kennedy Second Street, Mylapore, Chennai-4, together with 215 sq.ft., pathway from Kennedy Street. The petitioner would state that construction of Ground Floor + I

Floor have been put up after obtaining planning permission. It is also stated by the petitioner that an old house belonging to the 4th respondent is situated adjacent to the petitioner's property and the rear side wall on the western side of the 4th respondent's house is the common wall abutting the petitioner's property and the pathway on the southern side of the petitioner's property is the access to the petitioner's property. The petitioner would further state that the 4th respondent has demolished the superstructure and started putting up a new construction and the same has been done in total contravention of the relevant norms and laws and no side set back has also been left and in the process, the said construction is also encroaching upon the petitioner's property. In sum and substance, it is the stand of the petitioner that the construction being put up by the 4th respondent consisting of Ground Floor + 3 Floors is not at all permissible for the reason that Kennedy II Street, Mylapore, is having the width of only 20 feet.

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3 The learned counsel for the petitioner would submit that the petitioner in this regard, has submitted a representation based on which, the 2nd respondent has issued Stop Work Notice / Notice dated 28.02.2017 calling upon the 4th respondent to produce approved plan

and thereafter, the 2nd respondent is yet to take further action. The learned counsel has also drawn the attention of this Court to the online portal of the 3rd respondent and would submit that even as per the information furnished, no progress is taking place and therefore, the petitioner is constrained to approach this Court by filing the present writ petition.

4 The Court heard the submissions of Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the 1st respondent ; Mr.N.Sampath, learned standing counsel appearing for the 2nd respondent and Mr.A.Nagarajan, learned standing counsel appearing for the 3rd respondent 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 claim projected by the petitioner, subject to any legal intradict, directs the 2nd respondent to act on the Stop Work Notice dated 28.02.2017 and after affording the 4th respondent a reasonable opportunity, shall proceed further and pass appropriate orders in accordance with law within a period of eight 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 4th respondent herein.

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

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

[N.S.S., J]

19.07.2017

Index : No

Internet : Yes

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To

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M.SATHYANARAYANAN, J.,
AND
N.SESHASAYEE, J.,
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