

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:14.11.2017
CORAM
THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE N.SESHASAYEE
W.P.No.28987/2017 & W.M.P.No.31209/2017

Latha, W/o. Prabhakaran,
Rep.by its Power Agent Mrs.Poongothai

... Petitioner

vs

1 The Commissioner, Kundrathur Panchayat Union,
Corporation of Greater Chennai,
Padapai, Chennai-600 003.

2 S.Shankar @ Frank Shankar ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus or any direction in the form of writ or appropriate writ directing the first respondent to implement the directions given under Letter No.EC/C-1/11873/2017 dated 25.09.2017 issued by CMDA to take necessary action for removal of unauthorized construction put up on the petitioner's property by the 2nd respondent from the concerned authorities namely the first respondent under section 34 of T.N.Panchayat Building Rules 1987 and also under section 34 (iii) of Tamil Nadu Panchayat Building Rules 1987 for stoppage of further construction put up on the plot No.CS (Covenant Shop) as per approved layout called "Balaji Avenue" in PPD/L051/1993 by CMDA admeasuring 898 Sq.ft comprised in S.No.175/3B situated at Ayyappanthangal Village, Kancheepuram.

For Petitioner : Mr.J.R.K.Bhavanantham
For R1 : Mrs.M.E.Rani Selvam, AGP

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

By consent, the writ petition is taken up for final disposal. Mrs.M.E.Rani Selvam, learned Additional Government Pleader accepts notice on behalf of the first respondent.

2 The petitioner is a resident of Singapore and she is being represented by her Power of Attorney Mrs.Poongothai, who is also her mother. The Power of Attorney of the writ petitioner, in the affidavit filed in support of this writ

petition would aver among other things that the daughter is the absolute owner of the plot in an approved layout called "Balaji Avenue" in PPD/L051/1993 by the Chennai Metropolitan Development Authority [CMDA] and it admeasures to an extent of 898 Sq.ft comprised in S.No.175/3B situated at Ayyappanthangal Village, Kancheepuram, through a registered Sale Deed vide Document No.2353 of 2009 dated 25.09.2009.

3 The petitioner after said purchase, had put up cement hollow block walls and put up a thatched roof on over it. The petitioner had also obtained planning permission and approval vide building plan reference D.No.56269/File No.DD/S/2437/2016/AAC dated 03.02.2017 from the first respondent and it is valid for 3 years. It is the specific case of the petitioner that taking advantage of her absence, the second respondent had trespassed into a portion of the property, armed with the order of ad-interim injunction dated 29.04.2017 in I.A.No.24 of 2017 in O.S.No.38 of 2017 on the file of the District Munsif Court cum Judicial Magistrate, Sriperumbudur. The said petition after contest was dismissed by the said Court vide a detailed order on 29.04.2017 and so far, no challenge has been made to the said order. The petitioner through her Power of Attorney Agent, filed a suit for permanent injunction in O.S.No.189 of 2017 on the file of the same court and the said application was also allowed on 01.09.2017 and as a consequence, the petitioner is also having the benefit of the interim order restraining the 2nd respondent from interfering with the peaceful possession and enjoyment or in any manner trespassing into the same and the said order has also not been put to challenge.

4 The grievance now expressed by the petitioner is that the second respondent, in utter violation of the above said Court orders, had started putting up an unauthorized construction and said fact has also been brought to the knowledge of CMDA, who vide letter No.EC/C-1/11873/2017 dated 25.09.2017, has directed the second respondent to examine the veracity of the complaint and take necessary enforcement action against the construction under reference by exercising the powers delegated by CMDA and also as per the Local Bodies Act.

5 Mr.J.R.K.Bhavanantham, learned counsel appearing for the petitioner would submit that though the communication has been sent by CMDA to the 1st respondent as early as on 25.09.2017, no action has been taken so far and hence, the petitioner is constrained to approach this Court by filing the present writ petition.

6 This Court heard the submission of Mrs.M.E.Rani Selvam, learned Additional Government Pleader appearing on behalf of the first respondent and also perused the materials placed before it.

7 Though the petitioner prays 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, directs the first respondent to act on the above said communication of the CMDA dated 25.09.2017, after putting the Power of Attorney of the petitioner as well as the second respondent on notice, shall cause an inspection of the alleged offending construction being put up by the second respondent and thereafter take action 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 Power of Attorney of the petitioner as well as to the second respondent herein.

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

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

rpl
To

The Commissioner, Kundrathur Panchayat Union,
Corporation of Greater Chennai,
Padapai, Chennai-600 003.

+lcc to Mr.J.R.K.Bhavanantham, Advocate SR.No.80581

sm:12.12.2017

W.P.No.28987/2017

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