

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2017

CORAM

THE HONOURABLE Mr.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.1757 of 2008

Rachel Jose

.. Petitioner

Vs.

1.The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

2.The Commissioner
Villivakkam Panchayat Union
Office at Ambattur
Chennai - 600 058.

3.The Municipal Chairman
Ambattur Municipality
Chennai - 600 058.

4.B.Mythili

.. Respondents

Prayer : Writ Petition filed under Section 226 of Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1,2 and 3 to take immediate action to demolish illegal construction put up by the fourth respondent herein in premises No.90, Pillaiyar Koil Street, Golden George Nagar, Nerkundram, Chennai-600 107, as per the provisions of the Tamil Nadu Town and Country Planning Act, 1971 and the Tamil Nadu District Municipalities Act (Act V of 1920).

For Petitioner : Mr.Ashok Menon

For Respondents: Mr.N.Sampath
Standing Counsel [R1]
Mr.A.Nagarajan
Standing Counsel [R3]
R4 - No appearance

O R D E R

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

By consent, the writ petition is taken up for final disposal.

2. Mr.N.Sampath, learned Standing Counsel appears on behalf of the first respondent and Mr.A.Nagarajan, learned Standing Counsel appears on behalf of the third respondent.

3. The petitioner in the affidavit filed in support of the writ petition would aver among other things that he claims to be the absolute owner of the property bearing Door No.221, Pillaiyar Koil Street, Golden George Nagar, Nerkundram, Chennai - 600 107 and also the owner of the vacant plot admeasuring to an extent of 1800 sq.ft. at Plot No.90A of the same locality. The petitioner would further aver that on the western side of the vacant plot is the land that belongs to the fourth respondent and she has put up construction comprising of ground, first and second floors and has also put up columns in the third floor. It is the specific case of the petitioner that the construction is purely unauthorised and in this regard, she has submitted a representation to the concerned officials, praying for appropriate action and since no response is forthcoming, came forward to file this writ petition.

4. The writ petition was entertained on 23.01.2008 and notice was issued to the fourth respondent through Court as well as privately. There was also a direction to the first respondent to carry out inspection of the construction constructed by the fourth respondent and to submit a report on 30.01.2008.

5. In pursuance to the said order, the first respondent has filed the inspection report along with a copy of the inspection sketch before this Court on 22.02.2008, stating that they have caused the inspection on the construction/building comprising of ground floor, first floor and second floor, consisting of five dwelling units and the building is yet to be occupied. It is further stated in the report that no approved plan was exhibited at the site and a notice calling for approved plan in Notice No.D.3440, dated 12.02.2008 has been issued.

6. When the writ petition was listed on 23.01.2008, this Court has directed the first respondent to carry out the inspection of the construction in the land in question and subsequently, the writ petition was admitted on 11.11.2009.

Thereafter, the matter was taken up on 16.08.2017 and the learned Standing Counsel appearing for the first respondent-CMDA sought time to get further instructions as to the latest position and the case was then adjourned to 30.08.2017. On 30.08.2017, it was brought to the knowledge of the Court that Ambattur Municipality got merged with Corporation of Chennai City Municipal Corporation and it is the submission of the learned Standing Counsel appearing for the first respondent that if any unauthorised construction is noted on the part of the fourth respondent, it is the role of the concerned Zonal Officer to take action.

7.Mr.A.Nagarajan, learned Standing Counsel appearing on behalf of Corporation of Chennai, would submit that the area in question falls under Zone-XI and appropriate action will be taken against the offending construction put up by the fourth respondent.

8.The inspection report of the first respondent-CMDA would prima facie disclose that no approved plan was exhibited by the fourth respondent at the site and the superstructure consisting of ground, first and second floors having five dwelling units were constructed.

9. It is the primordial submission of the learned counsel appearing for the petitioner that the entire construction put up by the fourth respondent is totally unauthorised and therefore, the respondents are under statutory duty to demolish the offending construction.

10. Though the fourth respondent is represented by her counsel and the name of the counsel being printed in the cause-list, there is no representation today.

11. This Court, in the light of the above facts and circumstances, directs the Zonal Officer, Zone-XI, Corporation of Chennai, Ambattur, Chennai, to put the fourth respondent on notice and thereafter, proceed further in accordance with law, for removal of the alleged offending construction and the said exercise has to be carried out within a period of eight weeks from the date of receipt of a copy of this order and necessary communication in this regard shall be given to the petitioner as well as the fourth respondent.

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

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To:

- 1.The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road,
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- 2.The Commissioner
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- 3.The Municipal Chairman
Ambattur Municipality
Chennai - 600 058.
4. The Zonal Officer, Zone-XI,
Corporation of Chennai, Ambattur, Chennai.

+1cc to M/s.N.Sampath, Advocate sr.68733

+2cc to M/s.Ashok Menon, Advocate sr.70160

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GMI (co)
ss(26/10/2017)