

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.26428 of 2003
and
W.P.M.P.No.32336 of 2003

K.Beejan Bee

... Petitioner

Vs.

1) The Assistant Executive Engineer,
Unit XIV, Zonal Officer V,
Corporation of Madras,
Taylors Road, Madras - 600 010

2) The Inspector of Police (L & O),
G-3 Kilpauk Police Station,
Kilpauk, Madras 600 010.

3) Mr.Mohan,
Sub Inspector of Police,
G-3 Kilpauk Police Station,
Kilpauk, Madras 600 010.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records of the 1st respondent in his notice issued under section 236 of the Chennai City Municipal Corporation Act IV of 1919 dated 15.09.2003 and quash the same.

For Petitioner : Mr.C.Praskasm

For Respondents : Mr.V.C.Selvasekaran for
Chennai Corporation - R1;

Mr.Akhil Akbar Ali
Government Prosecutor for R2;

R3- No appearance

ORDER

The petitioner has come forward with this writ petition to call for the records of the 1st respondent-Corporation of Chennai, vide notice issued under Section 236 of the Chennai City Municipal Corporation Act IV of 1919 dated 15.09.2003 and quash the same.

2.Learned counsel for the petitioner submitted that the petitioner, after obtaining prior permission and plan approval for the construction of the building from the first respondent-Corporation of Chennai, constructed a house in the land bearing R.S.No.453/101A in Block No.27 in Egmore Village, and the petitioner, after getting appropriate instructions from the officials of Corporation of Chennai, was allowed to construct the house in the above mentioned address.

3.The site in question is situated at the dead-end of the land beyond the house site of the petitioner, where there is a school building and a compound wall. The petitioner submitted that no one can go beyond the petitioner's house and considering the reason mentioned above, she can utilize the available space for constructing a portico and also a space for car parking along with a toilet. The learned counsel for the petitioner further submitted that when the construction of the house commenced, there was interference by the police authorities, for which the petitioner submitted that she had approached the Corporation of Chennai to regularize small constructions. Since there was violation under Section 236, notice has been issued by the Corporation of Chennai officials, which has been challenged by the writ petitioner.

4. The writ petition was admitted on 26.09.2003. Even though no counter was filed, Mr.Selvasekaran, learned counsel for the respondent-Corporation of Chennai, submitted that the so-called construction which has commenced, is completely in violation of the building plan. Since there was violation, notice has been issued under Section 236 of the Chennai City Municipal Corporation Act IV of 1919 dated 15.09.2003. If the petitioner constructs a house or any portion beyond the plan that has been sanctioned, it would be illegal.

5. According to the petitioner, she wanted to utilize the portion for which no building plan has been sanctioned. The Corporation officials cannot regularize the unauthorised construction, more particularly, when there is no set back. The petitioner has also stated that the construction has been stopped and she had taken steps for regularising the construction of the house that consists of a portico and a toilet. If any construction is made in violation of plan or

there is no plan, the Corporation can take all steps to demolish the same within four weeks from the date of receipt of a copy of this order and report the same before this Court. If no action is taken by the officials, disciplinary action need to be initiated against them and they should be shown the doors. Hence, the Writ Petition is dismissed accordingly. Consequently, connected W.P.M.P.No.32336 of 2003 is closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sts

To:

- 1)The Assistant Executive Engineer,
Unit XIV, Zonal Officer V,
Corporation of Madras,
Taylors Road, Madras - 600 010
- 2)The Inspector of Police (L & O),
G-3 Kilpauk Police Station,
Kilpauk, Madras 600 010.

W.P.No.26428 of 2003

PA(CO)
CA(11/09/2017)



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