

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.3.2018

CORAM

The HON'BLE MR.JUSTICE M.VENUGOPAL

AND

The HON'BLE MR.JUSTICE S.VAIDYANATHAN

Writ Petition No.4343 of 2018 & WMP.No.5343 of 2018

Mr.A.Michael

...Petitioner

Vs

1.The Executive Engineer,
Zone IX, Greater Chennai
Corporation, No.1, Lake Area,
4th Cross Street, Chennai-34.

2.Mr.Arul Baskar

(R2 impleaded as per order of Court
dated 27.3.2018 in WMP.No.6909
of 2018 by MVJ & SVNJ)

...Respondents

PETITION under Article 226 of The Constitution of India
praying for the issuance of a Writ of Certiorari to call for the
records on the files of the First Respondent in notice in
Z.O.C.No. Dn-118/5/2017 dated 29.1.2018 and quash the same being
illegal, invalid, without jurisdiction and violated the
principles of natural justice.

For Petitioner : Mr.D.Vijayakumar
For Respondent-1 : Mr.K.Soundararajan
For Respondent-2 : Mr.P.Sidharthan

Order of the Court was made by S.VAIDYANATHAN, J

The petitioner has come forward with this writ petition
challenging the notice under Sections 56 and 57 read with
Section 85 of the Tamil Nadu Town and Country Planning Act,
1971.

2. It is seen from the impugned notice that the second floor
at door No.54, Cathedral Road, Chennai-86 has been constructed
deviating the sanctioned plan to an extent of 252 square meters.

3. The question as to whether the building is old one or the
second floor alone has been constructed in violation of the
sanctioned plan or whether there is any plan for the

construction of the entire structure is a matter to be decided by the Appellate Authority in an appeal under Section 80A of the said Act. Since the petitioner has got an effective alternative remedy, we are of the view that the relief sought for by the petitioner cannot be granted.

4. It is pertinent to note that one of us (SVNJ), in W.P.No. 21239 of 2005, etc. batch, by order dated 18.12.2017, with regard to the procedure to be followed by the Authorities, who conduct summary proceedings, observed as follows:

"6. This Court makes it further clear that the regularization proceedings shall be conducted by the respondents after hearing necessary parties who are likely to be affected and if there are complainants, they should also be heard. Whenever parties appear, the applicant(s) as well as the complainant(s) shall be heard and the conduct of the proceedings should be written down by the officer concerned who is hearing the matter, and he shall obtain signatures in the proceedings after recording the submissions if any made. It is like summary proceedings. The documents filed by the parties need to be given Exhibit numbers. A copy of the proceedings shall be furnished immediately thereafter to the parties concerned to avoid unnecessary allegation against the officials that the records have been manipulated. The authority concerned shall seek for written submissions from the petitioner(s)/ applicant (s)/complainant(s) within a time frame and thereafter, the authority shall pass appropriate orders within thirty days in accordance with law."

5. Therefore, without rendering any finding on the matter, we direct the petitioner to approach the Appellate Authority by filing an appeal within 15 days from the date of receipt of a copy of this order. On receipt of such appeal, the Appellate Authority is directed to decide the same within a period of three months from the date of receipt of such appeal after following the guidelines issued in W.P.No.21239 of 2005, etc. batch dated 18.12.2017. It is made clear that till then, the violated portions of the building in question shall be kept under lock and seal and there shall not be electricity supply to the violated portions, forthwith. If the violated portions are not kept under lock and seal and electricity supply is not disconnected, the Officials who are supposed to carry out the directions of this Court can be proceeded with departmentally and major punishment shall be imposed on them, which shall be entered in their service records.

6. With the above directions, the writ petition is disposed of. No costs. Consequently, the connected WMP is closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

To:
The Executive Engineer, Zone IX, Greater Chennai Corporation,
No.1, Lake Area, 4th Cross Street, Chennai-34.

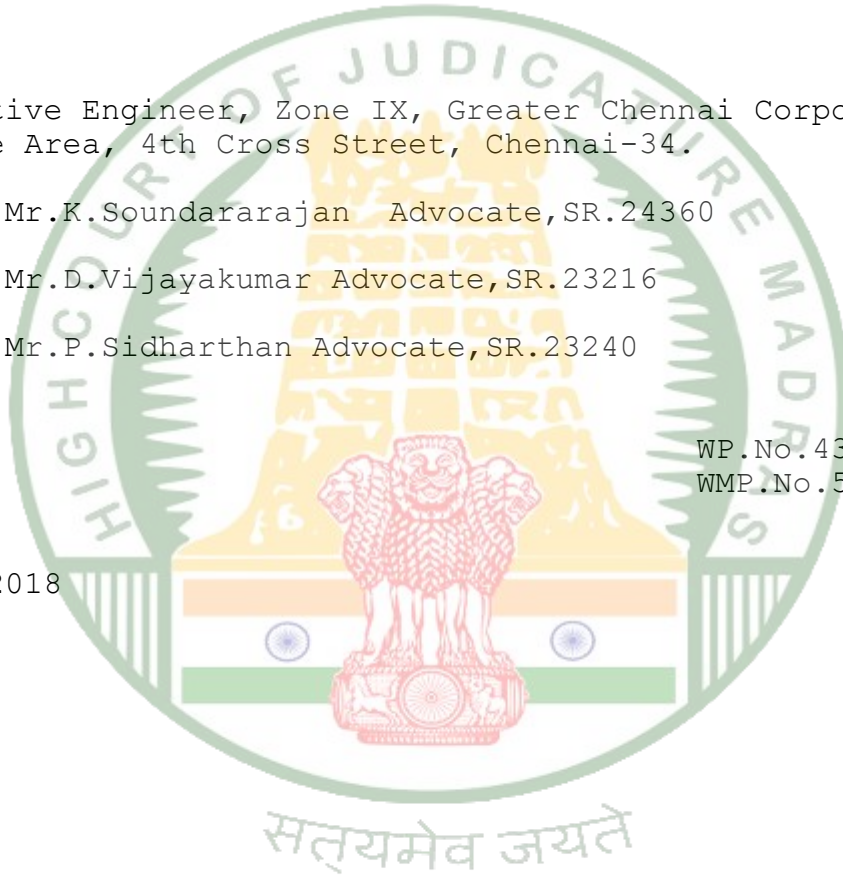
+ 1 cc to Mr.K.Soundararajan Advocate,SR.24360

+ 1 cc to Mr.D.Vijayakumar Advocate,SR.23216

+ 1 cc to Mr.P.Sidharthan Advocate,SR.23240

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nr 18/04/2018



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