

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.04.2018
CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARYANAN
AND
THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

W.P.Nos.9449 to 9451 of 2018
&
W.M.P.Nos.11304 to 11306 of 2018

W.P.No.9449 of 2018

Dhanalakshmi

.. Petitioner

Versus

1.The Commissioner
Corporation of Chennai
Ribbon Buildings
Chennai

2.Chennai Metropolitan Development Authority
Rep. By its Member Secretary
Thalamuthu Natarajan Maaligai
Gandhi -Irwin Road
Egmore, Chennai- 600 008

3.Anuratha
4.M.Pettiammal
5.Savithiri
6.Muthusaravanan
7.Chandrasekaran
8.Srinath Hari

.. Respondents

Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the respondents 1 and 2 herein to take appropriate consequential proceedings in pursuance of the lock and seal notice issued under the provisions of the Tamil Nadu Town & Country Planning Act and Chennai City Municipal Corporation Act in respect of the property in Survey No.245 and 252 T.S.No.2/2 (Part), 2/3 (Part) and Plot No.3 and 4, Block No.33 of Peravallur Village, Chennai - 600 082 measuring about 5000 sq.ft.

W.P.No.9450 of 2018

Chandra

.. Petitioner

Versus

1.The Commissioner
Corporation of Chennai
Ribbon Buildings
Chennai

2.Chennai Metropolitan Development Authority
Rep. By its Member Secretary
Thalamuthu Natarajan Maaligai
Gandhi -Irwin Road
Egmore, Chennai- 600 008

3.S.Pooja

4.A.Sangeetha

5.R.Swetha Kumari

6.K.Chandrasekar .. Respondents

Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the respondents 1 and 2 herein to take appropriate consequential proceedings in pursuance of the stop work notice issued under the provisions of the Tamil Nadu Town & Country Planning Act and Chennai City Municipal Corporation Act in respect of the property situate at Old No.146-C, New No.1-A, Paper Mills Road, Peravallur Village, Chennai- 600 082 comprised in Survey No.252 (part) T.S.No.2/5 (Part) in Block No.33, measuring about 58 square meters.

W.P.No.9451 of 2018
Chandra .. Petitioner

Versus

1. The Commissioner
Corporation of Chennai
Ribbon Buildings
Chennai

2.Chennai Metropolitan Development Authority
Rep. By its Member Secretary
Thalamuthu Natarajan Maaligai
Gandhi -Irwin Road
Egmore, Chennai- 600 008

3.M.Rajeswari

4.M.Vijayakumar .. Respondents

Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the respondents 1 and 2 herein to take appropriate action to remove the unauthorized construction, in respect of the property situate at Plot No.9, Paper Mills Road, Peravallur Village, Chennai- 600 082 comprised in Old Survey No.252 (Part), T.S.No.2/1 Part in Block No.33, east-west on the northern side 45 feet and north-south on the eastern side 30 feet, measuring about 1350 sq.ft.

For Petitioner : Mr.C.Jagadish

For Respondents : Mr.A.Nagarajan
Standing Counsel for R1

Mr.K.Raja Srinivas
Standing Counsel for R2

COMMON ORDER

[Judgment of the Court was made by M.SATHYANARYANAN, J.,]

By consent, the writ petitions are taken up for final disposal and are disposed of by this common order.

2. Mr.A.Nagarajan, learned standing counsel accepts notice on behalf of first respondent and Mr.K.Raja Srinivas, learned standing counsel accepts notice on behalf of second respondent.

3. In W.P.No.9449 of 2018, the petitioner would aver among other grounds that the property in S.Nos.245 and 252, Peravallur Village, Chennai - 600 082 was originally purchased by her ancestor Mangammal and his son Natarajan through a registered sale deed bearing Document No.350 of 1926 registered on the file of Sub-Registrar, Sembium.

4.The petitioner would further aver that he is one of the successor-in-interest of the said property and along with other sharers, she is entitled to 1/6th share and in this regard, she has also filed a suit in O.S.No.6592 of 2004 on the file of the VIII Assistant Judge, City Civil Court, Chennai for partition and separate possession of 1/6th share in the said property and it is also pending and in the said suit, respondents 3 and 4 are also arrayed as Defendants 42 and 43. The petitioner would further claim that she is in possession of the specific extent of property in Plot Nos.3 and 4 in Block No.33, which form part of the suit property in Survey Nos.245 and 252, Raja Garden, Peravallur Village, Chennai - 600 082 and it is duly subjected to statutory levies. The petitioner, on becoming aware of the facts that private respondents are attempting to put up unauthorized construction in Plot Nos.3 and 4 and Block No.33

comprised in S.Nos.245 and 252 in T.S.No.2/2 (Part), Pervallur Village, Chennai - 82, filed W.P.No.14428 of 2015 praying for issuance of a writ of mandamus directing respondents 1 and 2 to prevent unauthorized construction and vide order dated 02.02.2016, the writ petition was disposed of taking note of the submission that action has already been initiated under Sections 56 and 57 of the Town and Country Planning Act, 1971 on 14.12.2015.

5.The grievance now expressed by the petitioner is that once again the private respondents started construction activities in the disputed property and in this regard, detailed representation dated 24.02.2018 has been submitted to respondents 1 and 2. Though the representation was received in advance, no action has been taken so far and the private respondents are merrily and hurriedly proceeding with the construction and hence, the petitioner came forward to file this writ petition.

5. In W.P.No.9450 of 2018, the petitioner, making similar allegations, would submit that in the case on hand, construction has been completed and textile shop is being run and despite detailed representation dated 21.02.2018 has been submitted to respondents 1 and 2 and after receipt of representation, no action has been taken so far.

6. In W.P.No.9451 of 2018, the petitioner making similar averments, would submit that the private respondents, despite the pendency of the comprehensive suit for partition and knowing pretty well that no planning permission is granted, have put up a superstructure and in this regard, a representation dated 21.02.2018 has been submitted and in spite of receipt of the same, nothing is forthcoming and hence, the petitioner came forward to file this writ petition.

7. Heard Mr.C.Jagadish, the learned counsel appearing for the petitioners, Mr.A.Nagarajan, learned Standing Counsel appearing for the first respondent and Mr.K.Raja Srinivas, learned standing counsel appearing for the second respondent.

8. The learned counsel for the petitioner, drawing the attention of this Court to the typed-set of documents, would submit that in W.P.No.9449 of 2018, despite initiation of proceedings under the Town and Country Planning Act, 1971, no further action has been taken and in respect of two writ petitions, W.P.Nos.9450 and 9451 of 2018, without any planning permission, construction have been completed and premises are used for commercial purposes and residential purposes respectively and the said fact, though brought to the knowledge of respondents 1 and 2, no worthwhile or remedial action has been taken. Left with no other option, the petitioner is

constrained to approach this court by filing these writ petitions.

9. Per contra, the learned standing counsel appearing for the Corporation of Chennai would submit that necessary inspection would be carried out in respect of the premises in question and depending upon the result of the same, further action would be taken in accordance with the provisions of the Town and Country Planning Act, 1971/ Chennai City Municipal Corporation Act, 1919. The learned Standing Counsel for the second respondent would submit that as of now they have nothing to do with the alleged unauthorized construction put up by the private respondents.

10. We heard the rival submissions and perused the materials placed before us.

11. This Court, taking into consideration the above facts and circumstances and without going into the merits of the claim made by the petitioner, directs the Zonal Officer, Corporation of Chennai, to cause inspection of Plot Nos.3 and 4 in Block No.33, Old No.146-C, New No.1-A Paper Mills Road, Peravallur Village, Chennai - 600 082 comprised in Survey No.252 (part), T.S.No.2/5 (Part) in Block No.33 and Plot No.9, Paper Mills Road, Peravallur Village, Chennai - 600 082 comprised in Old S.No.252 (part) T.S.No.2/1 Part in Block No.33, after putting the petitioner as well as the private respondents on notice. The said exercise shall be carried out within a period of three weeks from the date of receipt of a copy of this order. Depending upon the result of the inspection, the respondents 1 and 2 shall take appropriate action in accordance with law within a further period of 8 weeks thereafter and communicate the decision taken to the petitioner as well as to the private respondents.

The writ petitions stand disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

s/d-

Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

gpa

To

1.The Commissioner
Corporation of Chennai
Ribbon Buildings
Chennai

2.Chennai Metropolitan Development Authority
Rep. By its Member Secretary
Thalamuthu Natarajan Maaligai
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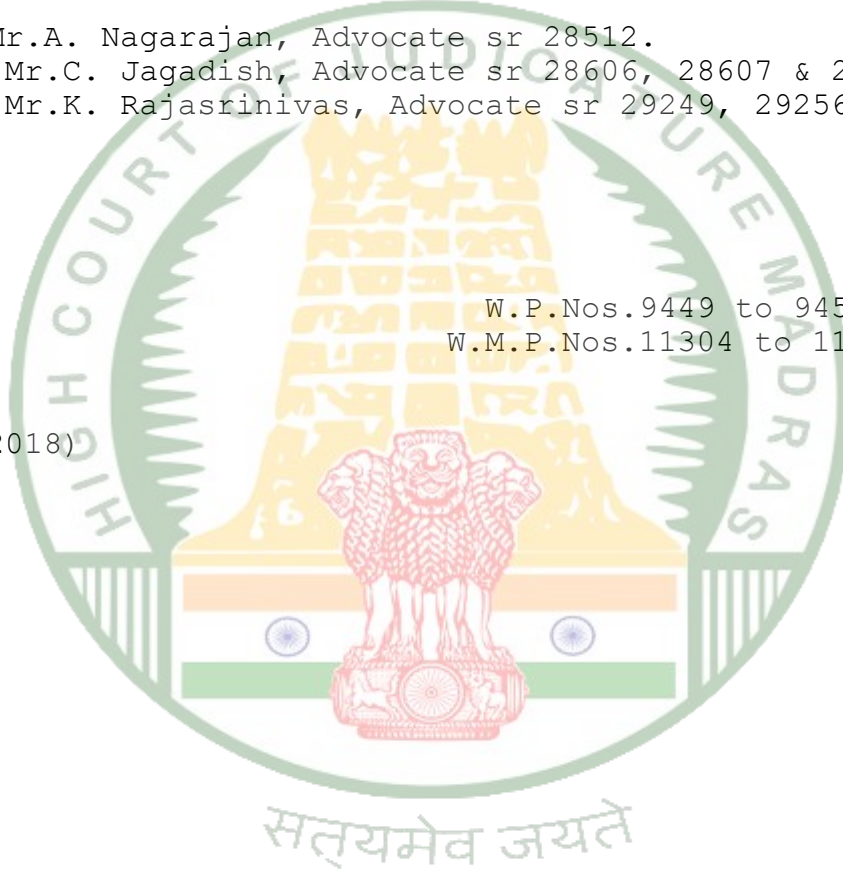
+1 CC to Mr.A. Nagarajan, Advocate sr 28512.

+3 Ccs to Mr.C. Jagadish, Advocate sr 28606, 28607 & 28608.

+3 Ccs to Mr.K. Rajasrinivas, Advocate sr 29249, 29256 & 29251

W.P.Nos.9449 to 9451 of 2018 &
W.M.P.Nos.11304 to 11306 of 2018

NA (CO)
SP (15/05/2018)



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