

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.14401 of 2016

Alagappan Lakshmanan

... Petitioner

vs.

1. The Commissioner,
Avadi Municipality,
Chennai.
2. The Chief Engineer/Town Planner,
Avadi Municipality, Chennai.
3. RC Royal Grande Flat Owners' Association,
(Regn. No.17/2014),
Kambar Street,
Kamalam Nagar Main Road,
Thirumullaivoyal,
Chennai 600 062.
4. The Member Secretary,
Chennai Metropolitan Development Authority,
1, Gandhi Irwin Road,
Egmore, Chennai 600 008.
5. M/s.Rajarathinam Constructions (P) Ltd.,
rep. by its Managing Director, Mr.A.Rathinam,
20, Anderson Road,
Ayanavaram, Chennai 600 023.

... Respondents

(R5 impleaded as per order dated 08.06.2016
in W.M.P.No.16778 in W.P.No.14401 of 2016)

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a mandamus directing the 1st and 2nd respondents to dispose of the application submitted by the petitioner on 26.02.2016.

For Petitioner	:	Mr.R.Venkatesulu
For Respondents 1 & 2	:	Mr.P.Srinivas
For 3rd Respondent	:	Mr.P.Chandrasekar

For 4th Respondent : Mr.C.Johnson
For 5th Respondent : Mr.G.Jeremiah

O R D E R

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

The petitioner has come up with this Writ Petition seeking a direction to respondents 1 and 2 to dispose of his application, dated 26.02.2016.

2. According to the petitioner, he purchased a Flat at 'C', Harmony Block, RC Royal Grande, Kamar Street, Kamalam Nagar Main Road, Thirumullaivoyal, Chennai 600 062 vide Sale Deed dated 27.06.2011, bearing Document No.5807 of 2011 registered before the Sub-Registrar, Ambattur and the Flat was handed over to the petitioner by the Builder, viz. Rajarathinam Constructions and he is in actual possession of the same from 12.07.2012. After the handing over of the Flat, it was maintained by the Builder for nearly two years. Thereafter, the 3rd respondent/Association was formed in the name and style of 'RC Royal Grande Flat Owner's Association' and they started maintaining the Flats.

3. The grievance of the petitioner is that the Association is attempting to construct a solid waste bin in front of the Car Park space allotted for car washing, which is exactly facing the kitchen of his Flat. Since, according to the petitioner, the Association is intending to unauthorizedly construct a Solid Waste Bin within the Apartments contrary to the approved Plan, he made a detailed representation to respondents 1 to 3 on 26.02.2016, through Speed Post. Since no action is forthcoming from the official respondents, the petitioner is before this Court.

4. Learned counsel for the petitioner submitted that as per the Municipal Plan, the Solid Waste Bin is to come between the passage meant between two Car Parks earmarked with Nos.68 and 69 in front of the passage space, which is meant for the solid waste and storage tank.

5. According to the learned counsel appearing for the 5th respondent/Builder, there is no violation of the Plan and the solid waste is kept near Vanchinathan Street, which is 60 feet away from the petitioner's premises.

6. Learned counsel appearing for the 4th respondent/CMDA, produced the counter affidavit filed by the 4th respondent, relevant paragraphs of which, are extracted below:

"5. I further state that as per the 1st respondent Avadi Municipality, the Plan for the Flat of the petitioner as per Plan comes under B-1. The placement of Garbage Bin have not come opposite to the kitchen of the petitioner Flat by the 1st respondent, which is abutting the entrance of Vanchinathan Street.

6. Aggrieved by the placement of solid waste Management Bin and construction of a small building around it, put up by the 1st respondent outside the flat of the petitioner, but, facing the kitchen of the petitioner, the petitioner has given a representation on 26.02.2016 to the 1st and 2nd respondents. Hence, the 1st and 2nd respondents are to consider the representation of the petitioner, dated 26.02.2016 and pass orders therein, on merits and in accordance with law."

7. Taking note of the submissions made by the learned counsel on either side and in view of the limited prayer sought by the petitioner, respondents 1 and 2 herein are directed to dispose of the petitioner's representation dated 26.02.2016 on merits and in accordance with law within a period of one month from the date of receipt of a copy of this order, after giving an opportunity of personal hearing to the parties concerned. The official respondents shall ensure that the Solid Waste Bin is kept in the place as per the Original Approved Plan.

In fine, the Writ Petition is disposed of with the above direction and observation. No costs. Consequently, connected W.M.P.No.12592 of 2016 is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1. The Commissioner,
Avadi Municipality,
Chennai.

2. The Chief Engineer/Town Planner,
Avadi Municipality, Chennai.
3. The Member Secretary,
Chennai Metropolitan Development Authority,
1, Gandhi Irwin Road,
Egmore, Chennai 600 008.

+1cc to Mr.P.Srinivas, Advocate Sr.No.2793/18
+2cc to Mr.P.Cheandrasekar, Advocate SR.No.3482/18
+1cc to Mr.C.Johnson, Advocate Sr.No.2511/18

NRJK (CO)
sm:8.2.2018

Order in
W.P.No.14401 of 2016



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