

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2018

CORAM:

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

W.P.No.21661 of 2017

M.Devendra Kumar

... Petitioner

vs.

1. The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai.
2. The Chennai Metropolitan
Development Authority,
Thalamuthu Maligai,
Egmore, Chennai.
3. The Assistant Engineer,
Zone X, No.12, Masilamani Street,
Pondy Bazaar, T.Nagar,
Chennai 600 017.
4. G.Sathyanarayana Bothra
5. S.Srilata Bothra
6. S.Vishal Bothra
7. S.Kunal Bothra

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, directing the Respondents 1 to 3 to consider the Petitioner's representation dated 07.07.2017 and consequently direct the Respondents 1 to 3 to remove the unauthorized construction put up by Respondents 4 to 7 in the basement, 4th floor and 5th floor at Door Nos.5 & 6, Indira Arcade, Prakasam Road, T.Nagar, Chennai 600 017.

For Petitioner	:	Ms.A.B.Fathima Sulthana
For Respondents 1 & 3	:	Mr.A.Nagarajan
For 2nd Respondent	:	Mr.N.Sampath
For Respondents 4 to 7	:	Mr.R.Mohan

O R D E R

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

The Petitioner has come up with the present Writ Petition seeking a direction to Respondents 1 to 3 to consider his representation dated 07.07.2017 and for a consequential direction to Respondents 1 to 3 to remove the unauthorized construction put up by Respondents 4 to 7 in the basement, 4th floor and 5th floor at Door Nos.5 & 6, Indira Arcade, Prakasam Road, T.Nagar, Chennai 600 017.

2. According to the Petitioner, he is the owner of a part of the 2nd Floor portion measuring an extent of 4300 square feet of the premises in question and that the Builder had obtained approval for construction of 5 floors, viz. Basement, Ground Floor, I Floor, II Floor and III Floor. After construction of the building premises, the Builder had sold his rights over the undivided shares to different persons and Ground Floor, I Floor, part of the II Floor and III Floor were purchased by Respondents 4 to 7. The case of the Petitioner is that Respondents 4 to 7 with the help of the Officials of the Corporation of Chennai, constructed 4th and 5th Floors unauthorizedly and they have closed the Basement Car Parking area and are using the same as Godown. Though the Petitioner made a representation to the Official Respondents on 07.07.2017 to remove the unauthorized construction put up by Respondents 4 to 7 in the premises in question, no action is taken so far.

3. Today, when the matter is taken up for hearing, Learned Counsel appearing for Respondents 4 to 7 produced the counter filed by the 6th Respondent for himself and on behalf of Respondents 4, 5 and 7, and fairly submitted that if there are deviations in the constructions put up by the Developer, Respondents 4 to 7 are willing to rectify the same with regard to Basement, which will be used only for Car Parking and that the defects in the 5th Floor will also be rectified to the extent of the violation mentioned thereto. With regard to the 4th Floor, Learned Counsel submitted that Respondents 4 to 7 are willing to rectify the violated portions, if there is an adverse order passed under Section 113-C of the Tamil Nadu Town and Country Planning Act, 1971, as they have already made an application for regularization and that they will confine regularization with regard to the 4th floor alone. Learned Counsel sought time to rectify the defects by Respondents 4 to 7 in regard to the violated portions of the building in question.

4. In view of the above, acceding to the request of the Learned Counsel appearing for Respondents 4 to 7, this Court

directs Respondents 4 to 7 to rectify the defects in respect of the violated portions of the building in question, on or before 08.06.2018. It is made clear that electricity connection to the building in question can be restored except the 4th Floor.

5. This Writ Petition is disposed of with the above direction(s) and observation(s). No costs.

6. List this matter for 'reporting compliance' on 22.06.2018.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1. The Commissioner,
Corporation of Chennai, Ripon Buildings, Chennai.
2. The Chennai Metropolitan Development Authority,
Thalamuthu Maligai, Egmore, Chennai.
3. The Assistant Engineer,
Zone X, No.12, Masilamani Street,
Pondy Bazaar, T.Nagar, Chennai 600 017

+ 1 cc to Mr.N. Sampath, Advocate SR.23805

+ 1 cc to Mr.R. Mohan, Advocate Sr.24012

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(CS-VII)
EU(11/04/2018)

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