

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2018

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE
AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. Nos.11384, 15323 and 24961 of 2018 and
W.M.P.Nos.13286, 18216 and 29005 of 2018

W.P.No.11384 of 2018:

S.Malathy

.. Petitioner

Vs.

- 1.The Government of Tamil Nadu
rep by its Secretary to Government,
Housing and Urban Development Department,
Secretariat, Fort St.George,
Chennai - 600 009.
- 2.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maligai,
NO.2, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
- 3.The District Collector,
Tiruvallore District.
- 4.The Tahsildar,
Taluk Office,
Ambattur, \ Thiruvallore District.
- 5.The Managing Director,
Tamil Nadu Housing Board,
Old No.331, New No.491,
Anna Salai, Nandanam,
Chennai - 600 035.
- 6.The Executive Engineer,
Tamil Nadu Housing Board,
Anna Nagar Western Extension,
J.J.Nagar Division,
Thirumangalam,
Chennai - 600 101.

7.The Junior Engineer,
Tamil Nadu Housing Board,
Anna Nagar Western Extension,
J.J.Nagar Division,
Thirumangalam,Chennai - 600 101.

8.The Commissioner,
Corporation of Chennai,
Rippon Building, Chennai - 600 053.

9.The Assistant Commissioner,
Corporation of Chennai,
Zone - VII, Ambattur,
Chennai - 600 053.

10.The Executive Engineer,
Corporation of Chennai,
Zone - VII, Ambattur,
Chennai - 600 053.

11.The Chairman,
TANGEDCO, Anna Salai, Chennai.

12.The Assistant Engineer,
TANGEDCO,
JJ Nagar, Center, Mogappair East,
Mogappair, Chennai - 600 037.

13.A.Devaneethi

14.D.Beninal Johnsi Rani ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of mandamus directing the respondents 8 to 10 to take action against the unauthorized construction put up by the respondents 13 & 14 in the land and building bearing Door No.145, Vellalar Street, Mogappair, Chennai - 600 037 comprised in Survey No.499 measuring an extent of 6000 sq.ft. situated at Mogappair Village, Ambattur Taluk, Tiruvallore District pursuant to the order dated 31.08.2017 passed by the 1st respondent based on the petitioner's representation dated 15.03.2018 within the time stipulated and to direct the respondents 3 & 4 to remove the encroachments made in the land comprised in Survey No.499 measuring an extent of 6000 sq.ft. situated at Mogappair Village, Ambattur Taluk, Tiruvallore District and preserve the same free from encroachment.

For Petitioner : Mr.T.Sundaravadanam

For Respondents: Mr.S.Kamalesh Kannan,
Government Advocate (R1, R3 & R4)
Ms.Veena Suresh (R2)
Mr.V.Anandamurthy (R5 to R7)
Mr.V.C.Selvasekaran (R8 to R10)
Mr.P.R.Dhilipkumar (R11 & R12)
Mr.K.V.Subramanian, Senior Counsel
for Ms.S.Hemalatha (R14)
Mr.Mohamed Shafi (R13)

W.P.No.15323 of 2018:

M.Swaminathan
rep by his General Power Agent
A.Devaneethi ... Petitioner

Vs.

- 1.The Government of Tamil Nadu
rep by its Additional Secretary (Technical) to Government,
Housing and Urban Development Department,
Secretariat, Fort St.George,
Chennai - 600 009.
- 2.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maligai,
NO.2, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
- 3.The Principal Secretary/Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai - 600 003.
- 4.The Executive Engineer,
Town Planning Enforcement,
Regional Office Central,
Corporation of Chennai,
2nd Cross Street East,
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of certiorari to call for the records pertaining to the order in proceedings bearing letter No.898/UD-VII(1)/2016-6 dated 31.08.2017 duly issued by the Additional Secretary (Technical) to Government, Housing and

Urban Development Department, Secretariat, Fort St. George, Chennai - 600 009 the 1st respondent herein and to quash the same.

For Petitioner : Mr.K. V.Subramanian, Senior Counsel
for Ms.S.Hemalatha

For Respondents: Mr.S.Kamalesh Kannan,
Government Advocate (R1)
Ms.Veena Suresh (R2)
Mr.K.Soundar Rajan (R3 & R4)

W.P.No.24961 of 2018:

A.Devanidhi

.. Petitioner

Vs.

1.The Chairman, TANGEDCO,
Anna Salai, Chennai.

2.The Assistant Engineer,
TANGEDCO, JJ Nagar Centre,
Mogappair East, Mogappair,
Chennai - 600 037.

3.The Assistant Engineer,
O & M, JJ Nagar West,
TANGEDCO/CEDI/West,
Chennai - 600 037.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of mandamus to direct the 3rd respondent to forthwith restore the electricity service connection to the premises of the petitioner situated at Door No.145, Vellalar Street, Mogappair, Chennai - 600 037 with service connection No.043-029-1 and 043-029-2 within a time frame in accordance with law.

For Petitioner : Mr.K. V.Subramanian, Senior Counsel
for Ms.S.Hemalatha

For Respondents: Mr.P.R.Dhilip Kumar

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C O M M O N O R D E R

(Order of the Court made by M.DURAI SWAMY, J.)

W.P.No.11384 of 2018 has been filed by one S.Malathy to issue Writ of mandamus directing the respondents 8 to 10 to take action against the unauthorized construction put up by the

respondents 13 & 14 in the land and building bearing Door No.145, Vellalar Street, Mogappair, Chennai - 600 037 comprised in Survey No.499 measuring an extent of 6000 sq.ft. situated at Mogappair Village, Ambattur Taluk, Tiruvallore District pursuant to the order dated 31.08.2017 passed by the 1st respondent based on the petitioner's representation dated 15.03.2018 and to direct the respondents 3 & 4 to remove the encroachments made in the land and preserve the same free from encroachment within a time frame.

2.W.P.No.15323 of 2018 has been filed by one M.Swaminathan to issue Writ of certiorari to call for the records pertaining to the order dated 31.08.2017 issued by the 1st respondent and to quash the same.

3.W.P.No.24961 of 2018 has been filed by one A.Devanidhi to issue a mandamus to direct the 3rd respondent to forthwith restore the electricity service connection to the premises of the petitioner situated at Door No.145, Vellalar Street, Mogappair, Chennai - 600 037 within a time frame.

4.The petitioner in W.P.No.11384 of 2018 has filed the Writ Petition as a Public Interest Litigation seeking for issuance of mandamus.

5.The petitioner in W.P.No.24961 of 2018 is the Power Agent of the petitioner in W.P.No.15323 of 2018.

6.The learned counsel for the petitioner in W.P.No.11384 of 2018 submitted that the respondents 13 & 14 have put up ten shops on the land in question unauthorizedly and therefore, the official respondents should be directed to take action against the unauthorized construction.

7.Mr.K.V.Subramanian, learned senior counsel appearing for the 14th respondent submitted that since the superstructure exists for more than two decades and is also subjected to statutory levies, it is deemed to be authorized. The Division Bench of this Court, by order dated 03.07.2018, considering the case of both sides, granted an order of interim direction directing the jurisdictional Assistant Engineer, TANGEDCO/12th respondent in the Writ Petition to disconnect the electricity service connection to the ten shops in question.

8.When the matter is taken up for hearing, the learned counsel appearing for the respondents 8 to 10 submitted that the respondents have already sealed the premises on 10.12.2018 and they would initiate further action in respect of the unauthorized construction.

9.Since the respondents 8 to 10 had already taken action by sealing the premises and also submitted that they would initiate further action shortly, we are of the considered view that no further direction is required. Accordingly, W.P.No.11384 of 2018 is disposed of.

10.So far as W.P.No.24961 of 2018 is concerned, the petitioner, who is the 13th respondent in W.P.No.11384 of 2018, sought for a direction to the 3rd respondent to restore the electricity service connection to the premises.

11.As already stated, the Division Bench of this Court, by order dated 03.07.2018, directed the TANGEDCO to disconnect the electricity service connection to ten shops in question. Now the respondents 8 to 10, Chennai Corporation, in W.P.No.11384 of 2018, had sealed the premises on 10.12.2018. When the building has been sealed by the authorities and the petitioner has been prevented from using the premises, the relief sought for in W.P.No.24961 of 2018 cannot be granted.

12.So far as W.P.No.15323 of 2018 is concerned, Mr.K.V.Subramanian, learned senior counsel appearing for the petitioner submitted that the petitioner has challenged the order dated 31.08.2017 passed by the 1st respondent and that in view of the subsequent order passed by the respondents, the relief sought for in the Writ Petition has become infructuous.

13.The submission made by the learned senior counsel is recorded.

14.In the result,

(i)W.P.No.11384 of 2018 is disposed of;

(ii)W.P.No.24961 of 2018 is dismissed; and

(iii)W.P.No.15323 of 2018 is dismissed as infructuous.

No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

va

To

1.The Secretary,
Government of Tamil Nadu,
Housing and Urban Development Department,
Secretariat, Fort St.George,
Chennai - 600 009.

WEB COPY

- 2.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maligai,
NO.2, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
- 3.The District Collector,
Tiruvallore District.
- 4.The Tahsildar,
Taluk Office,
Ambattur, Thiruvallore District.
- 5.The Managing Director,
Tamil Nadu Housing Board,
Old No.331, New No.491,
Anna Salai, Nandanam,
Chennai - 600 035.
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J.J.Nagar Division,
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Rippon Building,
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Zone - VII, Ambattur,
Chennai - 600 053.
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Corporation of Chennai,
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Chennai - 600 053.

11.The Chairman,
TANGEDCO, Anna Salai, Chennai.

12.The Assistant Engineer,
TANGEDCO,
JJ Nagar, Center, Mogappair East,
Mogappair, Chennai - 600 037.

13.The Additional Secretary (Technical) to Government,
Government of Tamil Nadu,
Housing and Urban Development Department,
Secretariat, Fort St.George,
Chennai - 600 009.

14.The Principal Secretary/Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai - 600 003.

15.The Executive Engineer,
Town Planning Enforcement,
Regional Office Central,
Corporation of Chennai,
2nd Cross Street East,
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.

16.The Assistant Engineer,
O & M, JJ Nagar West,
TANGEDCO/CEDI/West,
Chennai - 600 037.

+1cc to Mr.P.R.Dhilip Kumar, Advocate, S.R.No.86366
+1cc to Mr.T.Sundaravadanam, Advocate, S.R.No. 86552
+1cc to Mr.S.Thiruvengadam, Advocate, S.R.No. 86362
+1cc to Mr.V.Anandha Murthy, Advocate, S.R.No. 86342
+1cc to the Government Pleader, S.R.No. 86185
+1cc to Mr.M.Mohammed Shafi, Advocate, S.R.No. 86077

+1cc to Mr.M.Mohammed Shafi, Advocate, S.R.No. 86077(17/12/2018)

W.P. Nos.11384, 15323 and 24961 of 2018 and
W.M.P.Nos.13286, 18216 and 29005 of 2018

GN(14/12/2018)