

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2018

CORAM:

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

W.P.No.22859 of 2017

M.Vasanth Kumar

... Petitioner

vs.

1. The Executive Engineer,
Zone-IX,
Corporation of Chennai,
No.1, Lake Area, 4th Cross Street,
Nungambakkam,
Chennai 600 034.

2. The Assistant Engineer,
Chennai Corporation,
Nungambakkam,
Chennai 600 034.

3. The Commissioner,
Chennai Corporation,
Ripon Buildings, Chennai.

4. S.S.Hajamohideen

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the 1st and 2nd Respondents to take action against the 4th Respondent based on the Petitioner's complaint dated 04.11.2016.

For Petitioner : Ms.G.Uma Maheswari

For Respondents 1 to 3 : Mr.V.C.Selvasekaran

For 4th Respondent : Mr.S.Santhosh

O R D E R
(Order of the Court was made by M.VENUGOPAL,J.)

Heard Ms.G.Uma Maheswari, Learned Counsel for the Petitioner; Mr.V.C.Selvasekaran, Learned Counsel appearing for Respondents 1 to 3 and Mr.S.Santhosh, Learned Counsel appearing for the 4th Respondent.

2. It is represented on behalf of the 1st Respondent/The Executive Engineer, Zone-IX, Corporation of Chennai, that the subject premises in question was locked and sealed on 23.10.2017. In the counter filed by the 1st Respondent in paragraph 6, the deviations in respect of the construction put up by the 4th Respondent, are mentioned as under:

S.No.	Description	As per Plan	As per Site	Deviated/ Unauthorized
1	Stilt Floor	10.49 M2	217.44 M2	206.95 M2
2	First Floor	169.78 M2	210.25 M2	40.47 M2
3	Second Floor	169.78 M2	210.25 M2	40.47 M2

3. Hence, the 4th Respondent is hereby directed not to create any third party rights in the subject matter of the premises in question and shall not occupy or put into use the premises, till it is constructed in accordance with the sanctioned/valid/approved Plan.

4. In this connection, it is brought to the notice of this Court that the Statutory Appeal preferred by the 4th Respondent is admittedly pending before the Principal Secretary to Government, Housing and Urban Development Department, Fort St. George, Chennai. Therefore, this Court deems it fit and proper in directing the Principal Secretary to Government, Housing and Urban Development Department, Fort St. George, Chennai, to dispose of the Appeal preferred by the 4th Respondent, of course, after providing necessary opportunity to the Appellant/4th Respondent, Writ Petitioner, the Complainant and others, if any, who are concerned in the subject matter in issue, after adhering to the principles of natural justice and to pass a final, reasoned and speaking order on merits, as expeditiously as possible.

5. The Appellate Authority/Principal Secretary to Government, Housing and Urban Development Department, Fort St. George, Chennai, at the time of disposal of the Appeal, shall take into consideration of the fact as to whether the premises in question is a Continuous Building Zone or Row House Zone. It

is open to the Petitioner and the 4th Respondent to raise all factual and legal pleas before the Appellate Authority, who shall adhere to each of the points raised by the parties and pass final orders.

6. Before parting with the case, this Court makes it clear that the Appellate Authority shall take into account the Division Bench order dated 09.01.2018 passed by this Court in W.P.No.14520 of 2017, wherein, necessary guidelines were issued as regards the construction of Building.

The Writ Petition is disposed of with the above observation (s) and direction(s). No costs. Consequently, connected W.M.P.No.24036 of 2017 is closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

(aeb)
To:

1. The Executive Engineer,
Zone-IX, Corporation of Chennai,
No.1, Lake Area, 4th Cross Street,
Nungambakkam,
Chennai 600 034.
2. The Assistant Engineer,
Chennai Corporation,
Nungambakkam,
Chennai 600 034.
3. The Commissioner, सत्यमेव जयते
Chennai Corporation,
Ripon Buildings, Chennai.

+1cc to Mr.S.VEERARAGHAVAN Advocate, S.R.No.15811
+3cc to Mr.S.SANTOSH, Advocate, S.R.No. 16016

Order in
W.P.No.22859 of 2017

TR(13/03/2018)