

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2018

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.34177 of 2017
and WMP.Nos.37967 of 2017

1.Radha Agarwal,
2.Lalitha Agarwal

... Petitioners

Vs.

1.The Commissioner,
Greater Chennai Corporation,
Rippon Building, Chennai-600 003.

2.The Assistant Commissioner,
Greater Chennai Corporation,
Zone-VI, No.5, Anderson Road,
Ayanavaram, Chennai-23.

3.The Executive Engineer,
Greater Chennai Corporation,
Zone VI, No.5, Anderson Road,
Ayanavaram, Chennai-23.

.... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the second respondent notice in Z.O.VI.C.No.11008/2017 dated 08.12.2017 and quash the same and consequently direct the 2nd and 3rd respondents to demolish the unauthorized 3rd and 4th floor and to permit the petitioner to occupy the authorized portion at No.97, Astabujam Road, Choolai, Chennai-112.

For Petitioners : M/s.S.Santhan

For Respondents : Mr.A.Nagarajan, Standing Counsel
for Corporation of Chennai.

O R D E R

(Order of the Court was made by M.SATHYANARAYANAN, J.)

By consent, this Writ Petition is taken up for final disposal.

2. The petitioners claim to be the joint owners of the

premises situated at Door No.97, Astabujam Road, Choolai, Chennai-112 and according to them, they applied and obtained sanction for demolition and reconstruction of Stilt-cum-Ground Floor + Two Floors from the respondents in the year 2008 and while putting up construction, had put up additional constructions in the form of third and fourth floors without obtaining planning permission/approval. It is further stated by the petitioners that one Thiru.E.Sathiyamoorthy had filed W.P.No.27882 of 2004 against the Chairman, CMDA and others, praying for issuance of a Writ of Mandamus forbearing the official respondents 1 to 3 from allowing the private respondent/sixth respondent to construct a building in Old Door No.97, New No.48, Astabujam Road, Choolai, Chennai-112 and it was disposed of, vide order dated 18.07.2017 with a direction, directing the first respondent, namely CMDA to demolish to unauthorized portion in the premises within the stipulated time.

3. The learned counsel appearing for the petitioners would submit that unauthorized construction in the form of third and fourth floors have been demolished and however, rest of the premises have been kept under lock and seal and appropriate direction may be given to the concerned officials to unlock and deseal the premises so as to enable the petitioners to occupy and also on instructions, has given an undertaking that after occupation, the physical features of the property in question will not be altered.

4. Per contra, Mr.A.Nagarajan, learned Standing Counsel, who accepts notice on behalf of the respondents would submit that the offending constructions have been demolished and there is a ground set back violation also and would further add that the superstructure is located in contiguous street house area.

5. This Court has carefully considered the rival submissions and also perused the entire materials placed before it.

6. It appears from the materials placed that the petitioners have purchased the premises in question from one Thiru.D.Gnanaprakasam/sixth respondent in W.P.No.27882 of 2004 and admittedly, they had put up unauthorized construction in the form of third and fourth floors and the offending constructions have been demolished in compliance of the order dated 18.07.2017 made in W.P.No.27882 of 2004.

7. The learned counsel appearing for the petitioners, on instructions, would submit that in the event of the petitioners allowed to occupy the premises consisting of Ground + Two Floors, they would not alter the physical features and minor deviations, if any, would be set right and the said statement, on instructions, is placed on record.

8. This Court, taking into consideration the above facts and circumstances, directs the second respondent to unlock and deseal the premises consisting of Ground + Two Floors in the premises at Door No.97, Astabujam Road, Choolai, Chennai-600 112, within a period of two weeks from the date of receipt of a copy of this order and also directs the jurisdictional TANGEDCO to restore the electricity service connection to the premises in question within the said time, subject to fulfilment of relevant norms and regulations. It is made clear that the petitioners, after getting possession of the premises in question, shall not alter it's physical features.

9. This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

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To

1. The Commissioner,
Greater Chennai Corporation,
Rippon Building, Chennai-600 003.

2. The Assistant Commissioner,
Greater Chennai Corporation,
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Ayanavaram, Chennai-23.

3. The Executive Engineer,
Greater Chennai Corporation,
Zone VI, No.5, Anderson Road,
Ayanavaram, Chennai-23.

+1 CC to Mr.S. Santhan, Advocate sr 35230.

+1 CC to Mr.A. Nagarajan, Advocate sr 35176.

W.P.No.34177 of 2017

NRL(CO)
SP(14/06/2018)