

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2018

CORAM

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

W.P.No.24288 of 2017

Mrs.Romana
W/o Mr.Jayaraj rep. by her
Power Agent Mr.S.Stephen Suresh Kumar ... Petitioner

-vs-

1. The Commissioner
Corporation of Chennai
Rippon Building
Chennai 600 003
2. The Member Secretary
Chennai Metropolitan Development Authority
Gandhi-Irwin Road
Egmore
Chennai 600 008
3. The Chennai City Commissioner of Police
Office of the Commissioner of Police
Poonamalle High Road
Vepery
Chennai 600 007
4. R.Ravichandran
5. D.Arul Raj .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents authorities to demolish and remove the illegal superstructures viz. temple named as Sri Bhavani Palayathamman Temple and Christian pedestal with cross symbol and flagstaff constructed in the property comprised in T.S.Nos.36 to 47, Ayanavaram Village, Ayanavaram Taluk bearing Door No.313, Konnur High Road, Ayanavaram, Chennai 600 023 by the respondents 4 & 5, within a time limit to be stipulated by this Hon'ble Court.

For Petitioner ::Mr.S.Thanka Sivan

For Respondents::Mr.V.C.Selvasekaran for R1
Mr.Karthick Rajan for R2
Mr.R.Udhayakumar
Additional Government Pleader for R3
Mr.S.Ramachandran for R4

R5 : No Appearance

ORDER

(Order of the Court was delivered by M.VENUGOPAL, J.)

Heard Mr.S.Thanka Sivan, Learned Counsel for the Petitioner, Mr.V.C.Selvasekaran, Learned Standing Counsel for the First Respondent/Chennai Corporation, Mr.Karthick Rajan, Learned Standing Counsel for the Second Respondent/CMDA, Mr.R.Udhayakumar, Learned Additional Government Pleader for the Third Respondent/State. Although Publication was effected in respect of the Fourth and Fifth Respondents in one issue of 'The Hindu' daily (English and Tamil), for the Fourth Respondent, there is a representation through the Learned Counsel Mr.S.Ramachandran. However, in respect of the Fifth Respondent, there is no representation.

2. The Petitioner has preferred the present Writ Petition praying for passing of an order by this Court in directing the Respondents/Authorities to demolish and remove the superstructures, namely, Temple named Sri Bhavani Palayathamman Temple and Christian pedestal with Cross symbol and flagstaff constructed in the Property comprised in T.S.Nos.36 to 47, Ayanavaram Village, Ayanavaram Taluk, bearing Door No.313, Konnur High Road, Ayanavaram, Chennai 600 023 by the Fourth and Fifth Respondents.

3. At this juncture, Mr.V.C.Selvasekaran, Learned Standing Counsel for the First Respondent/Chennai Corporation brings it to the notice of this Court that in Letter No.6596/UD-VII(1)/2018-6 dated 6.9.2018, the Additional Secretary (Technical) of the Housing and Urban Development Department, Secretariat, Chennai, at paragraphs 5 & 8, had observed the following:-

"5. In this regard, the appellant and the officials of Chennai Metropolitan Development Authority / Greater Chennai Corporation were afforded a personal hearing on 23.04.2018 at 1.00 P.M.

- During the hearing the objector informed that there is no dispute on the existence of the temple. But it is totally unauthorized one. They have not even

applied for obtaining the permissions required. Temple being a place of worship and gathering of public, the temple authorities must have obtained planning permission. They cannot make appeal since no application for planning permission has been filed. They have constructed the temple on the lands of belonging to his client.

- The appellant informed that they have no ownership rights. But the temple is not constructed by him but it is old one. He is now managing the temple.
- The Greater Chennai Corporation official informed that notice was issued for the temple on November 2017. The primary issue to be decided is whether the notice issued by the Greater Chennai Corporation is valid or not. From the provision of documents furnished and arguments made during the hearing on three occasions the following are concluded:-

(i) The structure for the temple is unauthorized.

(ii) The persons in charge of temple did not make any attempt to get planning permissions and building license, and

(iii) There is a dispute over the ownership for the land on which the temple is constructed.

8. The Member Secretary, Chennai Metropolitan Development Authority/the Commissioner, Greater Chennai Corporation is informed to pursue action accordingly."

4. In view of the foregoing, the present Writ Petition is disposed of, because of the fact that the Petitioner has to wait for the outcome of the order passed by the First Respondent through his letter No.6596/UD-VII(1)/2018-6 dated 6.9.2018. In case, the Petitioner has any cause of action as an affected person in regard to the subject matter in issue, then, it is open to him to file a fresh Writ Petition and to seek appropriate remedy for redressal of his grievance, if he so desires/advised.

5. Before parting with the case, this Court directs the Area Engineer of the TANGEDCO, Ayanavaram, Chennai to restore the electricity connection to the subject property concerned in the Writ Petition. No costs.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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To

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Chennai 600 007
4. The Area Engineer
TANGEDCO
Ayanavaram
Chennai

+1 CC to Mr.S. Ramachandran, Advocate sr 62359.
+1 CC to Govt. Pleader sr 62164
+1 CC to Mr.S. Thankasivan, Advocate sr 61900

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RSI (CO)
SP(26/09/2018)