

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2018

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THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.18295 of 2016
and
W.M.P.No.16001 of 2016

Raja Babu
by its Partner
Jayapradha Theatres & Raj Theatres,
No.37 & 38 General Patters Road,
Chennai - 600 002.

...Petitioner

Versus

- 1.The Commissioner of Corporation,
Corporation of Chennai,
Rippon Building,
Chennai - 600 003.
- 2.Regional Deputy Commissioner (North),
Corporation of Chennai,
Basin Bridge,
5th Zone Chennai - 600 021.
- 3.Zonal Officer,
5th Zone, Corporation of Chennai,
North Region,Basin Bridge Road,
Chennai - 600 021.
- 4.Executive Engineer,
Zone No.5,
Corporation of Chennai,
North Region,
Basin Bridge Road,
Chennai - 600 021.
- 5.Superintending Engineer (North),
Corporation of Chennai,
North Region,
Basin Bridge Road,
Chennai - 600 021.
- 6.Assistant Executive Engineer,
Corporation of Chennai,
Adhikeya Kesaven Street,
Egmore, Chennai.

7.Area Engineer,
DN-63,
Corporation of Chennai,
Puddupet, Chennai.

8.K.Majeed Bhasa,
National Radiators,
No.37 & 38, G.P.Road,
Chennai - 600 002.

9.Assistant Engineer,
G.P.Road Section,
CEDC/Central/TANGEDCO,
Anna Salai, Chennai - 600 002.

10.M/s.R.K.Real Estates and Investments,
Rep.by its Partner,
Mr.P.Sri Ram Kumar,
No.37, General Peters Road,
Chennai - 600 002.
...Respondents

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, to direct the respondents 1 to 7 to consider the petitioner's representation dated 16.10.2015, 21.10.2015, 03.05.2016 respectively.

For Petitioner :Mr.R.Parthasarathy

For Respondents :Mr.T.C.Gopalakrishnan
Standing counsel for R1 to R7
Mr.M.N.S.Mohamed Habeeb Raja,
for R8
Mr.P.R.Dhilipkumar
Standing counsel for R9
Mr.S.Kesavan, for R10

O R D E R

The petitioner has come forward with the present writ petition seeking for issuance of a writ of mandamus, directing the respondents 1 to 7 to consider the petitioner's representations dated 16.10.2015, 21.10.2015, 03.05.2016 respectively.

2. Heard the learned counsel for the petitioner, the learned Standing counsel appearing for the respondents 1 to 7, the learned counsel appearing for the 8th respondent, the learned Standing counsel appearing for the 9th respondent and the learned counsel appearing for the 10th respondent and perused the materials available on record.

3. The learned counsel appearing for the petitioner submitted that the petitioner is the joint owner of the property at Door No.37 and 38, G.P.Road, Chennai-2 and the 8th respondent is the tenant and 10th respondent is the co-owner of the said premises. It is further added that the respondents 1 to 7 have already conducted inspection to ascertain the stability of the building. However, the reports were not furnished to the petitioner, despite his representations dated 16.10.2015, 21.10.2015, 03.05.2016. Hence, the petitioner has come up with the present writ petition.

4. The learned counsel appearing for the petitioner has further stated that, if a direction is given to the first respondent to consider the representation of the petitioner, the petitioner would be satisfied.

5. The learned Standing Counsel appearing for the respondents 1 to 7 submitted that the representations of the petitioner would be considered in accordance with law.

6. The learned counsel appearing for the 8th respondent vehemently opposed contending that the tenant is in occupation of the said premises; that in the affidavit filed in support of the writ petition, the petitioner has not come up with a definite case and based on the better affidavit, relief cannot be granted to the petitioner; that when there is an ambiguity in the affidavit, the Court cannot grant any relief on assumptions and presumptions; that in the earlier writ petition in W.P.No.4070 of 2016, this Court has issued a direction and it has become final and that this writ petition has been filed by abusing the process of law. In support of his contention a decision in The Commissioner, Karnataka Housing Board Vs. C.Muddaiah, reported in AIR 2007, SCC 3100(1) has been relied on.

7. In reply, the learned counsel for the petitioner submitted that there is no dispute that the petitioner is the joint owner of the property and he now seeks only the report of the earlier inspection and therefore, it cannot be termed as abuse of process of law. Further the 8th respondent is only a formal party as no relief has been sought against him.

8. It is not in dispute that the writ petitioner and the tenth respondent are landlords, while the 8th respondent is a tenant in respect of property in dispute. It appears that due to the strained relationship, they are litigating before different forums.

filed W.P.No.4070 of 2016, challenging the proceedings issued by the third respondent herein classifying the building under his occupation as a dangerous and unsafe. This Court while declining to quash the proceedings directed the third respondent to proceed further after conducting inspection of the premises.

10. In the original affidavit and the better affidavit, the petitioner seeks for inspection report, based on his representations dated 16.10.2015, 21.10.2015, 03.05.2016 and nothing more. Hence, I do not find any ambiguity in the case of the petitioner and the order passed in the earlier Writ Petition has nothing to do with the prayer sought for by the petitioner in this Writ Petition. So the contentions of the learned counsel for the 8th respondent in my considered view have no substance.

11. The Apex Court in the case of The Commissioner, Karnataka Housing Board Vs. C.Muddaiah, reported in AIR 2007, SCC 3100(1), held as follows:

" We are of the considered opinion that once a direction is issued by a competent Court, it has to be obeyed and implemented without any reservation. If an order passed by a Court of Law is not complied with or is ignored, there will be an end of Rule of Law. If a party against whom such order is made has grievance, the only remedy available to him is to challenge the order by taking appropriate proceedings known to law. But it cannot be made ineffective by not complying with the directions on a specious plea that no such directions could have been issued by the Court. In our judgment, upholding of such argument would result in chaos and confusion and would seriously affect and impair administration of justice. The argument of the Board, therefore, has no force and must be rejected."

12. In my considered opinion that the judgement cited supra is not applicable to the facts of the case.

13. In the light of the above facts and submissions of the learned counsel for the petitioner and the Standing counsel, this Court without going to the merits of the case, directs the first respondent to consider the representations of the petitioner dated 16.10.2015, 21.10.2015, 03.05.2016 and pass appropriate orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

14. Accordingly, this writ petition is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

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To

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+1 CC to Mr.T.C. Gopalakrishnan, Advocate sr 24808.

SG(CO)
SP(15/05/2018)

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