

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:08.02.2018

Coram

THE HONOURABLE Mr. JUSTICE M.VENUGOPAL

AND

THE HONOURABLE Mr. JUSTICE S.VAIDYANATHAN

W.P.Nos.19178 to 19180 of 2016 and

W.M.P.Nos.16694 to 16696 of 2016

Pavani.P.Jain .. Petitioner in WP.No.19178/2016
Kanakraj Bhandari .. Petitioner in
WP.No.19179/2016
Himmatmal Patni ... Petitioner in
WP.No.19180/2016

Vs.

1.The Corporation of Chennai,
Rep. By its Commissioner,
Rippon Buildings,
Chennai - 600 003.

2.Chennai Metropolitan Water and Sewerage Board,
Rep. By its Assistant Engineer,
Division 57, Area - V,
Govindappanaiyakan Street, Sowcarpet,
Chennai - 600 079.

..Respondents in all
WPs

Prayer: Writ Petitions filed under Article 226 of the
Constitution of India praying for issuance of Writ of Mandamus
directing the 2nd respondent to restore water and sewerage
connection to the apartments situated at Door No.126/133,
Annapillai Street, Chandra Prabu Apartments, George Town,
Sowcarpet, Chennai - 600 001.

For Petitioners : Ms.Abirami
For Mr.G.Ethirajulu

For 1st Respondent : Mr.V.C.Selvasekaran

For 2nd Respondent : Mr.N.Ramesh

COMMON ORDER

[Order of the Court was made by M.VENUGOPAL, J.]

Heard the Learned Counsel for the Petitioners and the Learned Counsel for the Respondents.

2.No counter is filed on behalf of the Respondents 1 and 2. By consent on either side, the Writ Petitions itself are taken up for final disposal.

3.According to the Petitioners, they along with others purchased an undivided share in the petition land as well as the Flats put up therein. Further, they are an actual possession and enjoyment of the said flats along with their family members from the year 2010 and also paying property tax to the 1st Respondent/ Corporation of Chennai. As a matter of fact, the 2nd Respondent/ Chennani Metropolitan Development Authority purportedly issued a common notice dated 27.08.2015 to the available persons in the Apartment.

4.The stand of the Petitioners is that they are bona fide purchasers and the flats are in possession and enjoyment of the same. From others, they came to know that a notice sent by the Chennai Metropolitan Development Authority dated 27.08.2015 that as per Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971, it was mentioned that as if the Petitioners had put up constructions without obtaining proper approval Plan from the Competent Authority. The Petitioners and others had preferred an Appeal before the Secretary to Government, Housing and Urban Development on 25.09.2015 and filed an Interim Application seeking stay of all further proceedings in pursuant to the Letter dated 27.08.2015 of the Chennai Metropolitan Development Authority. As on date, the said Appeal is pending.

5.It comes to be known that the Petitioners filed W.P.No.32720 of 2015 and this Court, on 14.10.2015, had passed orders in directing the 3rd Respondent therein to consider the Interim Application and the Review Petition within a period of two weeks and within the statutory period respectively.

6.The Learned Counsel for the Petitioners submits that the Petitioners were under the bona fide impression that the enquiry notice was received from the 1st Respondent/Corporation. However, the 2nd Respondent had cut off the water and sewerage supply with effect from 01.04.2016 and 06.04.2016 respectively. However, on being approached by the Petitioners before the Department concerned, no reply was furnished to them.

7.The prime contention taken on behalf of the Petitioners is that the Respondents being the statutory authority are under legal obligation not to proceed further when common Appeal and Stay Petition were filed and the same admittedly are pending as on date. Before disconnecting the water supply and sewerage, the plea of the Petitioners is that no notice was issued to them and therefore, Principles of Natural Justice were not adhered to. Hence, the Petitioners have filed the present Writ Petitions.

8.Admittedly, the Petitioners' Appeal together with an interim relief application dated 25.09.2015 are pending before the Secretary to Government, Housing and Urban Development Department, Government of Tamil Nadu as on date.

9.In view of the fact that the Appeal along with Stay Application preferred by the Petitioners are pending before the Secretary to Government, Housing and Urban Development Department, Fort St. George, Chennai, this Court, without granting the relief sought for by the Petitioners to restore the supply of water and sewerage connection to the apartments situated at Door No.126/133, Annapalli Street, Chandra Prabu Apartments, George Town, Sowcarpet, Chennai, simpliciter, directs the Secretary to Government, Housing and Urban Development Department, Fort St. George, Chennai - 600 009 is to take up the main Appeal itself together with interim application and to dispose of them finally, within a period of four months from the date of receipt of a copy of this order, if not already disposed of. It is open to the Petitioners to raise all factual and legal pleas before the Secretary to Government, Housing and Urban Development, Government of Tamil Nadu, Fort St. George, Chennai, who shall advert to the points raised and to pass a speaking order on merits, in a Free, Fair, Just and dispassionate manner. It is unfortunate that the Petitioners have not arrayed the Chennai Metropolitan Development Authority, Egmore, Chennai and the Appellate Authority viz., the Secretary to Government, Government of Tamil Nadu, Housing and Urban Development Department, Fort St. George, Chennai as one of the parties to the present Writ Petitions.

10.With the above observations and directions, these Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

Sgl

To

1.THE SECRETARY, HOUSING AND URBAN
DEVELOPMENT DEPARTMENT,
FOR ST. GEROGE, CHENNAI 9

2.THE MEMBER SECRETARY,
CHENNAI METROPOLITAN DEVELOPMENT
AUTHORITY, NO.8, GANDHI IRWIN ROAD,
EGMORE, CHENNAI - 8.

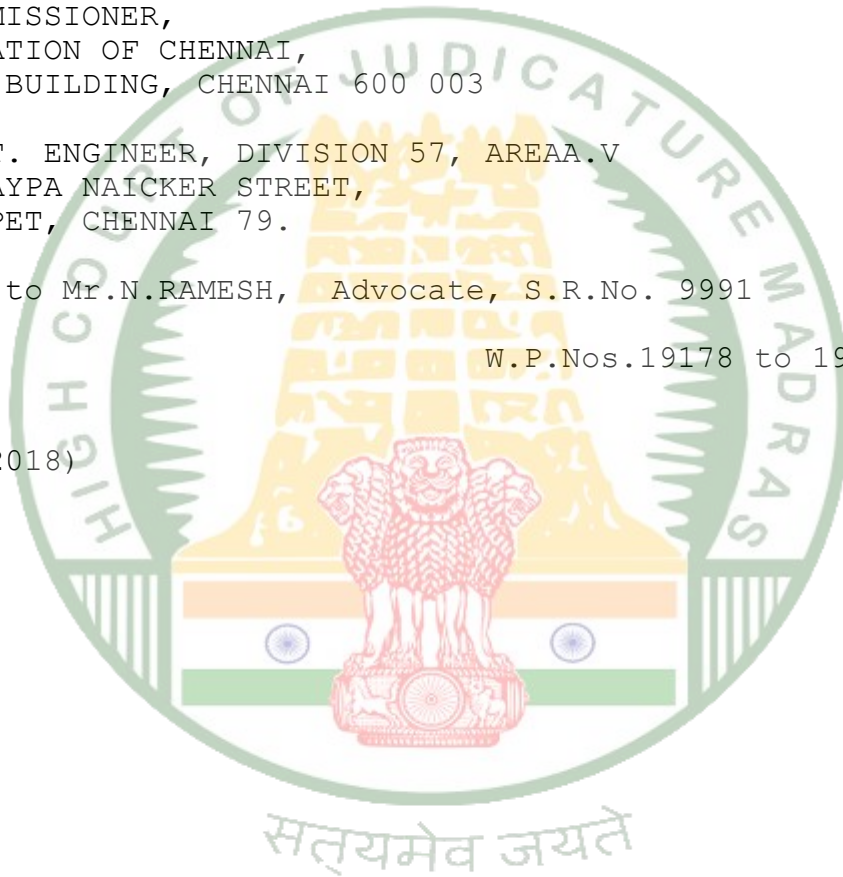
3.THE COMMISSIONER,
CORPORATION OF CHENNAI,
RIPPON BUILDING, CHENNAI 600 003

4.THE ASST. ENGINEER, DIVISION 57, AREA A.V
GOVINDAYPA NAICKER STREET,
SOWCARPET, CHENNAI 79.

+1cc to Mr.N.RAMESH, Advocate, S.R.No. 9991

W.P.Nos.19178 to 19180 of 2016

SKS (CO)
TR(12/03/2018)



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