

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.No.24798 of 2018 and
WMP No.28822 of 2018

B.Venkatesh Yadav

...Petitioner

-vs-

1.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajar Maaligai,
Gandhi Irwin Road, Egmore,
Chennai - 600 008.

2.The Commissioner,
Greater Chennai Corporation,
Ripon Building, Park Town,
Chennai - 600 003.

3.The Zonal Officer,
Greater Chennai Corporation,
Zone-IX, No.1, Lake Area,
4th Cross Street, Nungambakkam,
Chennai - 600 034.

4.R.S.Sahabuddin

5.Junaid Raifudin

6.N.S.Krishnamurthy

सत्यमेव जयते

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 1st respondent, order in Letter No.EC/C-II/8428/2018 dated 11.09.2018 and quash the same and consequently direct the 1st respondent to consider the representation dated 25.07.2018 within the stipulated period that may be fixed by this Hon'ble Court.

For Petitioner : Mr.M.K.Bhoopathy

For Respondents : Mr.Karthick
Standing Counsel for R1
Mr.A.Nagarajan
Standing Counsel for RR 2 & 3

O R D E R
[Order of the Court was delivered by
K.K.SASIDHARAN, J.]

Heard the learned counsel for the petitioner. Mr.Karthick, learned Standing Counsel takes notice for the first respondent and Mr.A.Nagarajan, learned Standing Counsel takes notice on behalf of respondents 2 and 3.

2. By consent, the writ petition is taken up for disposal during the time of admission.

3. The petitioner challenges the De-Occupation notice dated 11 August 2018 issued by the Chennai Metropolitan Development Authority, calling upon him to discontinue the occupation of the building constructed in an unauthorised manner and in violation of the Tamil Nadu Town and Country Planning Act, 1971.

4. The order impugned in this writ petition is appealable by filing appropriate proceedings before the Government under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971. The Appellate Authority is also having power to entertain an application for interim order during the currency of the appeal. We are therefore of the view that the petitioner must avail the statutory remedy available to him. We grant 15 days' time from today to file appeal before the appropriate authority under the Town and Country Planning Act along with an application for interim relief under Sub-Section (3) of Section 80-A of Tamil Nadu Act 35 of 1972. In case, any such appeal is filed along with an application for interim order, the application for interim relief shall be considered by the Appellate Authority at the first instance and appropriate order should be passed on merits and as per law. Status quo as on today shall be maintained till orders are passed by the Appellate Authority in the application for interim relief. We make it clear that in case no appeal is filed within a period of 15 days from today, it is open to the concerned statutory authority to proceed in accordance with law.

5. The writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

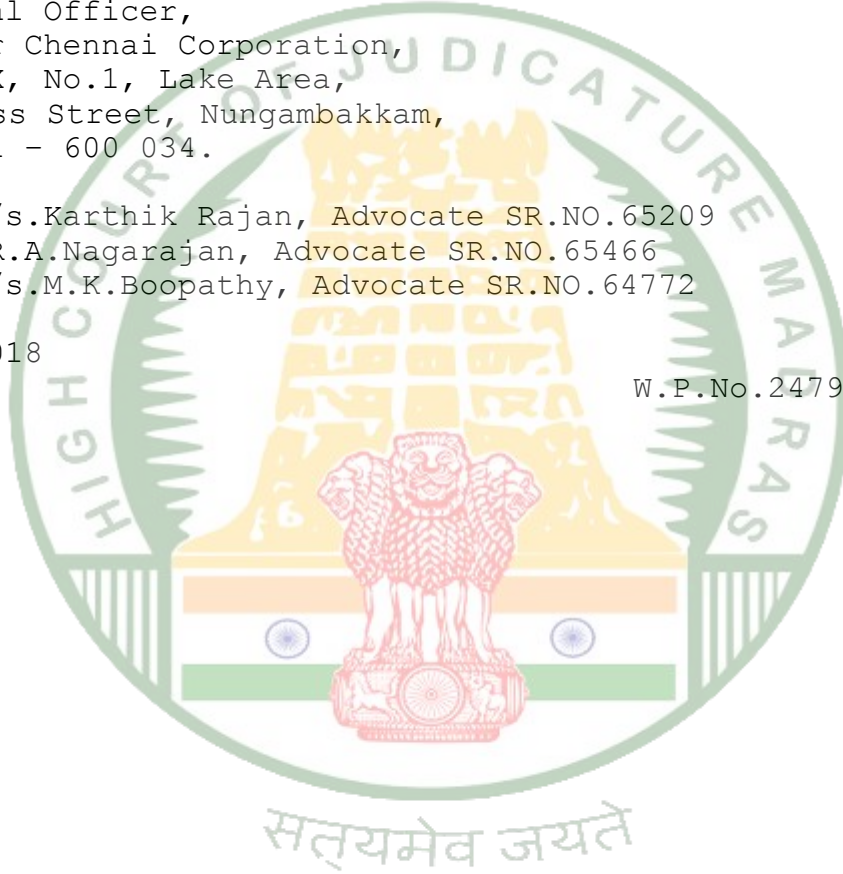
To

- 1.The Member Secretary,
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- 3.The Zonal Officer,
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Zone-IX, No.1, Lake Area,
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Chennai - 600 034.

+1cc to M/s.Karthik Rajan, Advocate SR.NO.65209
+1cc to MR.A.Nagarajan, Advocate SR.NO.65466
+2cc to M/s.M.K.Boopathy, Advocate SR.NO.64772

sm:20.9.2018

W.P.No.24798 of 2018



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