

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY
W.P.No.293 of 2018
and
W.M.P.No.1290 of 2018

1.C.Mohana Priya
2.Chusil Kumar

... Petitioners

Vs

1.The Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai 9.

2.The Member Secretary,
Chennai Metropolitan Development Authority,
Chennai 600 008.

3.The Commissioner,
Greater Chennai Corporation,
Chennai 600 003.

4.The Executive Engineer (Enforcement)
Greater Chennai Corporation,
Zonal Office VIII,
2nd Cross Street, (East) Pulla Avenue,
Shenoy Nagar,
Chennai 600 030.

5.Dr.Meera Srinivasan

6.The Assistant Engineer
Tamil Nadu Electricity Board,
37, Medavakkam Tank Road,
Kilpauk, Chennai 10.

(R-6, suo motu impleaded as per order
dated 08.01.2018)

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the
Constitution of India for issuance of Writ of Mandamus,
directing the respondents 2 to 4 to implement the Order passed
by the 1st respondent in Letter No.21249/UD-VI(2)/2016-3, dated
25.04.2017.

For Petitioner :Mr.K.S.Kumar

For Respondents :Mr.A.N.Thambidurai (for R1)
Special Government Pleader

Mr.S.Thiruvengadam (for R2)
Mr.A.Nagarajan (For R3 & 4)

Mr.P.R.Dhilip Kumar (for R6)

Mr.V.Prakash (for R5)
Senior counsel
for Mr.K.Lavan

O R D E R

(Order of this Court was made by N.KIRUBAKARAN, J)

The Writ Petition has been filed by the petitioners, who are neighbours of the 5th respondent, who is running a Nursing Home and also a lessee in respect of the vacant land under the petitioners, seeking a Writ of Mandamus directing the official respondents to implement the order passed by the 1st respondent dated 25.04.2017.

2.Since unauthorisedly the 5th respondent put up two rooms in the stilt floor, the petitioners made a complaint and thereafter lock and seal notice had been issued on 25.04.2017. In the the appeal filed by the 5th respondent, time was granted by the Government to the 5th respondent to rectify the defects within a period of six months and to get the building regularised.

3.Heard Mr.K.S.Kumar, learned counsel appearing for the petitioner; Mr.V.Prakash, learned senior counsel appearing for the 5th respondent; Mr.A.N.Thambidurai, learned Special Government Pleader appearing on behalf of the 1st respondent; Mr.S.Thiruvengadam, learned counsel appearing for the respondents 3 and 4; Mr.P.R.Dilip Kumar, learned counsel appearing for the 6th respondent.

4.When the matter was called before this Court on 08.06.2018, this Court directed the respondents 2 and 3, to remove the encroachment in issue made by the 5th respondent and to report the same before this Court and Electricity Board was also directed to disconnect the electricity supply to the 5th respondent in respect of the property in question. Thereafter, the matter came up before this Court on 06.04.2018, on which date, the 5th respondent agreed to restore the stilt floor to its

original condition by filing affidavit and also rectification of the deviation pointed out by indicating the outer time limit. Accordingly time was granted by this Court.

5. When the matter is called today, an affidavit has been filed by the 5th respondent, undertaking to demolish the two rooms in the stilt area. The relevant portion is extracted as follows:

"4. I respectfully submit that I undertake to demolish two rooms in the stilt area which were earlier under my usage within a period of three months at my cost. There are two other rooms and an office belongs to TLV Builders who are not parties to these proceedings."

6. Accordingly, time is granted till 17.10.2018 to the 5th respondent to demolish the two rooms in the stilt area. In case, if the two rooms are not demolished, on or before 17.10.2018, on 18.10.2018 itself, the authorities as well as the petitioners are permitted to demolish the portion along with police force.

7. There are two other rooms in the stilt floor, which according to the 5th respondent had been built by TLV builders and therefore, it is only TLV builders, who will have to demolish, the 5th respondent would submit.

8. However, the learned counsel appearing for the petitioners filed an affidavit of the Partner of the TLV Builders viz., Mr. T.R. Murugan, stating that they have constructed, sold and handed over the flats to the parties in the year 1996 itself and they have got no connection with the said building. Therefore, the official respondents are directed to demolish the two other rooms in the stilt floor, which is alleged to have been built by the TLV Builders on 18.10.2018.

With the above directions, this Writ Petition is disposed of. Consequently, connected miscellaneous petitions are closed. No costs. Call the matter for compliance on 22.10.2018.

Sd/-

Assistant Registrar (CS-iv)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai 9.

2.The Member Secretary,
Chennai Metropolitan Development Authority,
Chennai 600 008.

3.The Commissioner,
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Chennai 600 003.

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5.The Assistant Engineer
Tamil Nadu Electricity Board,
37, Medavakkam Tank Road,
Kilpauk, Chennai 10.

6. The Section Officer,
Writ Section, High Court, Madras.

+2cc to Mr.K.S.KUMAR, Advocate, S.R.No. 47853
+2cc to Mr.K.LAVAN, Advocate, S.R.No. 47841

W.P.No.293 of 2018

RR(CO)
TR(03/08/2018)

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