

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2018

CORAM:

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

W.P.No.24963 of 2018 and
WMP Nos.29088 and 29089 of 2018

1.V.Ravi
2.R.Rameshwari
3.M.Janakiraman ...Petitioners

-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 - 600 008.
- 3.The Executive Engineer,
Greater Chennai Corporation,
Zone-9, Chennai - 600 034.
- 4.The Assistant Executive Engineer,
Greater Chennai Corporation,
Unit -25, Mylapore, Chennai - 600 004.
- 5.The Assistant Engineer,
Greater Chennai Corporation,
Division - 125, Katchery Road,
Mylapore, Chennai - 600 004.
- 6.R.Sivakumar ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the respondents 3 to 5 in proceedings No.Z.O.9.C.No./125/019/2018 dated 27.08.2018 and quash the same.

For Petitioners: Mr.R.Balachandran

For Respondents: Mr.Karthick
Standing Counsel for R1
Mr.A.Nagarajan
Standing Counsel for RR 2 to 5
Mr.R.Prabhakaran for R6

O R D E R

[Order of the Court was delivered by
K.K.SASIDHARAN, J.]

The challenge in this writ petition is to the De-Occupation notice issued by the Greater Chennai Corporation on 27 August 2018 calling upon the petitioners to discontinue the occupation of the premises within a period of 7 days, failing which, it was indicated that further action would be taken for demolishing the unauthorised construction.

2. The petitioners have taken up a contention that the building in question was constructed on the strength of a planning permit issued by the Corporation. It is the further contention of the petitioners, who are stated to be the tenants that it was only to take vacant possession of the building without due process of law, the 6th respondent approached the Corporation, resulting in initiating enforcement proceedings. The petitioners have also produced a copy of the plan stated to have been sanctioned by the Chennai Corporation.

3. We have heard the learned counsel for the petitioners. We have also heard the learned Standing Counsel for the Chennai Metropolitan Development Authority, the learned Standing Counsel for the Chennai Corporation and the learned counsel appearing on behalf of the 6th respondent.

4. The notice impugned in this writ petition is amenable to the appellate jurisdiction under the provisions of the Tamil Nadu Town and Country Planning Act, 1971. The Appellate Authority is also having jurisdiction to pass interim orders to maintain status quo during the currency of the appeal. There is nothing on record to bypass the statutory remedy available to the petitioners. We are therefore of the view that the petitioners must approach the Appellate Authority at the first instance.

5. We grant liberty to the petitioners to initiate appropriate proceedings before the authority constituted under the provisions of Tamil Nadu Town and Country Planning Act. In case, any such appeal is filed within a period of 30 days' from today, the same shall be entertained and appropriate orders should be passed on merits. The petitioners are also given liberty to file an application for interim relief. In case, any such application is made, the same shall be considered at the first instance by the concerned authority so as to preserve the status quo.

6. Status quo as on today shall be maintained till orders are passed by the Appellate Authority either in the appeal or in the application for interim relief, whichever is earlier.

We make it clear that in case proceedings are not taken as indicated above, it is open to the concerned statutory authority to proceed further in accordance with law.

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

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

svki

To

- 1.The Member Secretary,
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Division - 125, Katchery Road,
Mylapore, Chennai - 600 004.

+1cc to M/s.Karthik Rajan, Advocate SR.NO.67130

RSI (CO)
sm:25.10.2018

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