

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WP.No.15671 of 2018
and WMP.No.18610 of 2018

A.Sumathi

...Petitioner

Vs.

1.The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai-600 003.

2.The Executive Engineer,
Zone-IX,
Greater Chennai Corporation,
No.1, Lake Area 4th Cross Street,
Nungambakkam, Chennai-600 034.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records on the file of the 2nd respondent in Ref.NOTICE NO. Z-IX / TPENF/De-Occ/7586/2018 dated 14.06.2018 and quash the same.

For Petitioner : Mr.D.Bharathy
For Respondents : Mr.K.Sountharajan
Standing Counsel

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.K.Sountharajan, learned Standing Counsel accepts notice on behalf of the respondents.

2. The learned counsel appearing for the petitioner would submit that joint inspection was done on 25.06.2018 and prior to that petitioner has been issued with a Lock and Seal notice dated 23.04.2018 followed by De-occupation notice dated 14.06.2018. It is also brought to the knowledge of this Court that wife of the petitioner has filed a writ petition for removal of Arulmigu Mariamman Temple, located on the middle of the public pathway and infuriated by the same, the present proceedings have been taken. In the said proceedings, though the wife of the petitioner prays for removal of encroachment in the form of temple, the petitioner himself is guilty of putting up an unauthorised construction and therefore, after causing inspection, following deviations were noted:

<i>S.No</i>	<i>Description</i>	<i>As per Plan</i>	<i>As per site</i>	<i>Unauthorised Construction</i>
1	Ground Floor	-	81.18 sq.mt	81.18 sq.mt
2	First Floor	-	86.46 sq.mt	86.46 sq.mt
3	Second Floor	-	86.46 sq.mt	86.46 sq.mt
4	Third Floor	-	19.74 sq.mt	19.74 sq.mt

3. The learned counsel appearing for the petitioner has produced the sanctioned plan pertaining to his premises and a perusal of the same would disclose that the planning permission / approval was granted only to put Ground + Two Floors, whereas the petitioner has put up only two floors and according to him, the 3rd Floor is open place with a small room. The learned counsel appearing for the petitioner would submit that till the result of the joint inspection, further proceedings may be deferred.

4. *Per contra*, Mr.K.Soundarajan, learned Standing Counsel appearing for the respondents would submit that the petitioner is guilty of suppression of material fact for the reason that his wife has filed a writ petition for removal of religious structure on the public road. He would further submit that the fact of unauthorised development has been suppressed and in pursuant to the orders passed by this Court, inspection was carried out, which reveals the unauthorised development on the part of

the petitioner and would further urge that since the petitioner is having effective alternate remedy, this writ petition is not maintainable.

5. This Court has considered the rival submissions and also perused the materials placed before it.

6. The petitioner in violation of the sanctioned plan / approval / building permit has put up unauthorised construction in the form of two floors and it also appears that the construction of the second floor and a room in the Third Floor are totally unauthorised.

7. This Court, taking into consideration the above facts and circumstances, directs the 2nd respondent to put up lock and seal on the Second Floor and on the room in Third Floor of the premises in question and the jurisdictional Tamil Nadu Generation and Distribution Corporation Limited is further directed to disconnect the electricity supply to the said floors, within a period of one week from the date of receipt of copy of this order. If the petitioner is so advised and if it is open to him under law, he is always at liberty to workout his remedy in respect of the Locking & Sealing and De-occupation notice dated 23.04.2018 and 14.06.2018 respectively.

8. This writ petition is disposed of with the above directions. No costs. Consequently connected miscellaneous petition is closed.

{M.S.N.J} {G.K.I.J}

27.06.2018

Index : No
Internet: Yes
Speaking Order

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To

1.The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai-600 003.

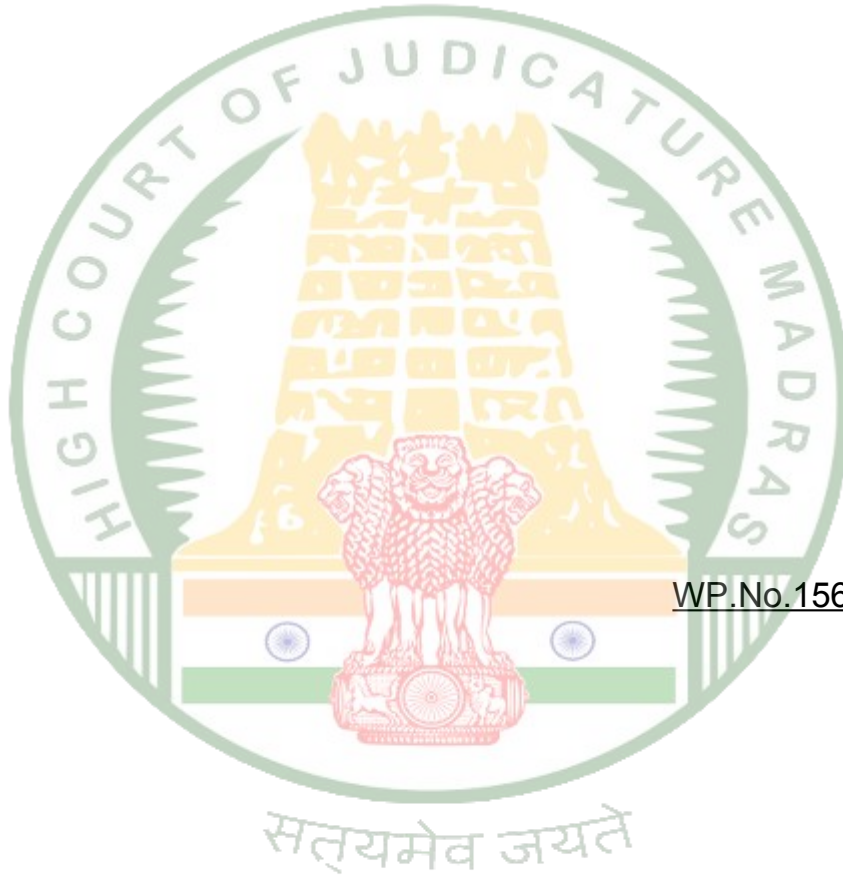
2.The Executive Engineer,
Zone-IX,
Greater Chennai Corporation,
No.1, Lake Area 4th Cross Street,
Nungambakkam, Chennai-600 034.

Copy to

The Assistant Executive Engineer,
TANGEDCO, Kodambakkam.

M.SATHYANARAYANAN.,J
AND
G.K.ILANTHIRAIYAN.,J

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