

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.07.2018

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

WP.No.16648/2018 7 WMP.No.19856/2018

Mr.T.C.Harinath

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Petitioner

Versus

1 The Ministry of Housing and Urban
Development Department
State of Tamil Nadu
Secretariat, Fort St George
Chennai 600 009.

2 The Commissioner
Corporation of Chennai
Rippon Building, EVR Salai
Chennai 600 003.

3 The Zonal officer
Zone-IV, Tondiarpet
Chennai 600 081.

4 Mr.Vishwanathan

..

Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the 2nd and 3rd respondents to investigate the illegal construction made by the 4th respondent at Plot No.374, 5th Cross Street, Mahakavi Barathi Nagar,

<http://www.judis.nic.in> Vyasarpadi, Chennai 600 039 and to act according to the provisions of

section 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971, and as according to the provisions of the Chennai City Municipal Corporation Act, 1919.

For Petitioner : Mr.Yusuf for
M/s.Nathan and Associates
For R1 : Mr.R.Udhayakumar, AGP
For RR2 &3 : Mr.R.Arulmozhi

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.R.Udhayakumar, learned Additional Government Pleader accepts notice on behalf of the 1st respondent and Mr.R.Arulmozhi, learned Standing counsel accepts notice on behalf of the respondents 2 and 3.

2 The petitioner claims to be the absolute owner of the property bearing Door No.15, Plot No.373, 4th Main Road, MKB Nagar, Vyasarpadi, Chennai-39 and it is in existence for very many decades and also subject to statutory levies. The petitioner would aver that the said property was developed on a land acquired by the Government vide G.O.Ms.No.714 dated 19.06.1971 for the purpose of forming a Housing Scheme, viz., "North Madras Neighbourhood Scheme-MKB Nagar". The grievance expressed by the petitioner is that the 4th

respondent, who claims to be the owner of the adjacent site, started developing the property in the form of additional construction without any planning permission or building permit whatsoever and in that process, rested upon a portion of the construction on the compound wall of the petitioner's premises.

3 The learned counsel for the petitioner would submit that since the said development is in *per se* illegal on the part of the 4th respondent, representations dated 21.02.2018 have been submitted to the respondents 2 and 3 and though nearly five months had elapsed, not even an inspection has been caused and taking advantage of the same, the 4th respondent has almost completed the construction and left with no other option, the petitioner is constrained to approach this Court by filing the present writ petition.

4 The learned counsel for the petitioner on instructions would also submit that the petitioner has put up the construction strictly in accordance with the sanctioned plan and he has not encroached upon the public land and the said submission, on instructions, is placed on record.

5 The Court heard the submissions of Mr.R.Udhayakumar, learned Additional Government Pleader appearing for the 1st respondent and Mr.R.Arulmozhi, learned Standing counsel appearing for the respondents 2 and 3 and perused the materials placed before it.

6 This Court, taking into consideration, the above facts and circumstances and without going into the merits of the claim projected by the petitioner, either in his representation or in this writ petition, directs the 3rd respondent to put the petitioner as well as the 4th respondent on notice and cause inspection of their respective premises to find out whether the construction already put up / being put up is strictly in accordance with the sanctioned plan or not and the said exercise is to be carried out within a period of four weeks from the date of receipt of a copy of this order and depending upon the result of the said inspection, the 3rd respondent shall take appropriate action in accordance with law for removal of the alleged offending construction within a further period of six weeks thereafter and communicate the decision taken, to the petitioner as well as to the 4th respondent.

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

[MSNJ] [GKIJ]
05.07.2018

Internet : Yes
AP

To

1 The Secretary,
State of Tamil Nadu, Housing and Urban
Development Department
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Chennai 600 009.

2 The Commissioner
Corporation of Chennai
Rippon Building, EVR Salai
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3 The Zonal officer
Zone-IV, Tondiarpet
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M.SATHYANARAYANAN, J.,
AND
G.K.ILANTHIRAIYAN, J.,

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