

In the High Court of Judicature at Madras

Dated : 12.10.2018

Coram

The Honourable Mr.Justice K.K. SASIDHARAN

AND

The Honourable Mr.Justice R. SUBRAMANIAN

W.P.No.25152 of 2018

P. Pavalavannan

... Petitioner

vs

- 1) Greater Chennai Corporation
rep by its Commissioner,
Rippon Building,
Chennai - 600 003
2. Zonal Officer,
Greater Chennai Corporation, Zone - 9,
No.1, Lake Area,
4th Cross Street,
Nungambakkam,
Chennai - 600 034
3. Assistant Executive Engineer,
Greater Chennai Corporation,
Ward No.125,
Kutchery Road,
Mylapore,
Chennai - 600 004

4. T. Davidraj

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the respondents 1 to 3 to take necessary action as per the reply dated 06.08.2018 given by the second respondent, against the unauthorised and illegal construction made by the fourth respondent in accordance with the provisions of Tamil Nadu Town and Country Planning Act.

For Petitioner : Mr.R. Neelakandan

For R.1 to R.3 : Mr.A. Nagarajan
Standing Counsel

For R.4 : Mr.S. Prabakaran
Senior Counsel for
Mr.W.M. Abdul Azeez

ORDER

(Order of the Court was delivered by K.K. SASIDHARAN, J.)

The petitioner has filed the writ petition for issuance of a Writ of Mandamus to direct the Chennai Corporation to take enforcement action against the fourth respondent on account of his construction of a building without planing permission.

2. We have earlier issued notice to the Chennai Corporation and the fourth respondent. The Chennai Corporation, through its Zonal Officer, Zone-9, filed a counter affidavit, wherein, it is stated that on account of the unauthorised construction made by the fourth respondent, " Stop Work " notice under Sections 56 and 57 read with Section 85 of Tamil Nadu Town and Country Planning Act, 1971 was issued on 10.07.2018. It is the contention of the Zonal Officer that even after issuing "Stop Work" notice, the fourth respondent proceeded to plaster and paint the building. Hence further action has been taken by issuing a "Locking and Sealing and Demolition" notice under Sections 56 and 57 read with Section 85 of Tamil Nadu Town and Country Planning Act, 1971 on 28.09.2018 and the same was received by the fourth respondent on 06.10.2018. According to the Chennai Corporation, follow up action would be taken against the offending construction.

3. The fourth respondent filed a counter affidavit contending that there was no such unauthorised construction put up by him. The fourth respondent also admitted that enforcement action was taken by the Chennai Corporation.

4. We have heard the learned counsel for the petitioner, learned Standing Counsel for the Chennai Corporation and the learned Senior Counsel for the fourth respondent.

5. The substantial prayer in this writ petition is to take action against the fourth respondent taking into account the unauthorised construction put up by him. The Corporation in its counter affidavit explained the enforcement action taken by issuing two notices, one on 10.07.2018 and another on 28.09.2018. It is for the Corporation to take follow up action

pursuant to the notices indicated above.

6. The petitioner in his affidavit, filed in support of the writ petition, contended that the fourth respondent has been throwing bottles through the window and as such, it would not be possible for him to use the common pathway. The fourth respondent must ensure that the passage is left free without any hindrance, and his occupation should not be a nuisance to the neighbours.

7. The Corporation must ensure that the enforcement action is taken till its logical end.

8. The writ petition is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

sr
To

- 1) Greater Chennai Corporation
rep by its Commissioner,
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+1cc to Mr.K.Sarathbabu, Advocate, S.R.No.71439

W.P.No.25152 of 2018

GP(CO)
GSP(15/11/2018)