

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.25310 of 2018 and  
WMP Nos.29435 and 29436 of 2018

E.M.PR.Muthappan

...Petitioner

-vs-

1.The Commissioner,  
Corporation of Chennai,  
Rippon Buildings, Chennai - 600 003.

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

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of mandamus, forbearing the respondents, their men, servants or agents or anyone claiming under them from in any manner proceeding with the demolition of the rear side building at Door No.82/22, North Mada Street, Mylapore, Chennai - 600 004 without ensuring safety of the authorized portions of the building and without following the safety measures as per the report to be filed.

For Petitioner : Mr.AR.L.Sundaresan  
Senior Counsel for  
Ms.AL.Ganthimathi

For Respondents: Mr.Arunmozhi, Standing Counsel

O R D E R

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

The registered owner of the building bearing Door No.82/22, North Mada Street, Mylapore, Chennai, has come up with this writ petition to forbear the Corporation of Chennai from proceeding with the demolition of the rear side portion of the building without ensuring safety of the authorised portions constructed in accordance with the approved plan.

2. Heard the learned Senior Counsel for the petitioner. We have also heard the learned Standing Counsel for the Corporation of Chennai.

3. The petitioner appears to have constructed a building bearing Door No.82/22 at North Mada Street in deviation to the approved plan. The Chennai Metropolitan Development Authority vide proceedings dated 7 April 1983 permitted the petitioner to construct the building with basement, ground and first floor. However, in violation of the planning permission, the petitioner had constructed ground plus two floors on the rear side of the building.

4. The Chennai Corporation on receipt of complaint from the local people initiated enforcement action. There were litigations involving the petitioner and the Chennai Corporation. The appeal preferred by the petitioner before the Government under Section 80-A of the Town and Country Planning Act, was dismissed by the Government. The said order was challenged in W.P.No.10720 of 2017. The Division Bench while dismissing the writ petition directed the Chennai Corporation to demolish the building in question and raze it to the ground within a period of one month. The Corporation took follow up action pursuant to the order passed by the Division Bench in W.P.No.10720 of 2017. The petitioner was directed to demolish the unauthorised construction at Door No.82/22, North Mada Street, within 15 days' failing which, it was indicated that Corporation would demolish the illegal structure at his cost.

5. The petitioner failed to comply with the notice issued by the Corporation. The Chennai Corporation therefore took action for demolition. It was at that point of time, the petitioner has come up with this writ petition.

6. There is absolutely no equity in favour of the petitioner. The petitioner is now complaining that on account of the demolition work undertaken by the Chennai Corporation, there is a threat to the structural stability of the neighbouring building. The petitioner could have engaged workers to demolish the building to ensure the safety of the neighbouring structure. It is only on account of the failure on the part of the petitioner to demolish the illegal structure, the Chennai Corporation engaged a Contractor.

7. The Zonal Officer, Corporation of Chennai, in his counter affidavit dated 26 September 2018 indicated the steps taken for demolition of the building. The Zonal

Officer very clearly stated that the work is carried out in a cautionary manner without affecting the existing old building. The demolition work is undertaken by using hand power driller and sledge hammers. There is nothing on record to disbelieve the statement made on oath by Zonal Officer. The Corporation has no axe to grind in the matter. It was only after giving a reasonable opportunity to the petitioner to remove the building, action was taken by the Corporation. We are therefore of the view that there is absolutely no merit in the contention taken by the petitioner.

8. We direct the Chennai Corporation to demolish the building without damaging the neighbouring building. The Corporation must ensure necessary safety measures while demolishing the illegal structure.

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

Sd/-  
Assistant Registrar(Ccc)

//True Copy//

Sub Assistant Registrar

svki

To

1.The Commissioner,  
Corporation of Chennai,  
Rippon Buildings, Chennai - 600 003.

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

+1cc to Ms.AL.Ganthimathi , Advocate SR.No. 67186

+1cc to M/s.Arunmozhi , Advocate SR.No. 66941

W.P.No.25310 of 2018

ASK(22/10/2018)