

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P.No.29670 of 2018

1. Mr.Anil K.Rajani
2. Mr.Sunil K.Rajani

.. Petitioners

Vs.

1. The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai-600 003.
2. The Assistant Executive Engineer,
Corporation of Chennai,
Division 63, Veerabadran Street,
Pudupet, Egmore,
Chennai-600 002.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents to take immediate and effective action to remove the unlawful encroachment by the illegal occupants and local dwellers put up on the periphery of the petition premises on the Northern and Eastern side of the wall of the property bearing Old No.32, New No.8, Kalimanpuram Street (Mount Road), Triplicane, Chennai-600 005.

For Petitioners : Ms.Gayathri for M/s.P.B.Ramanujam

For respondents : Mr.K.Soundararajan

ORDER

(The Order of the Court was made by M.Venugopal, J)

The Petitioners have come forward with the present Writ Petition praying for issuance of a Writ of Mandamus to direct the Respondents to take immediate and effective action to remove the unlawful encroachment by the illegal occupants and local dwellers put up on the periphery of the petition premises on the

Northern and Eastern side of the wall of the property bearing Old No.32, New No.8, Kalimanpuram Street (Mount Road), Triplicane, Chennai-600 005.

2. No counter affidavit is filed by the Respondents.

3. In the sworn affidavit by the First Petitioner, it is averred that they had applied to the Respondents-Corporation of Chennai for planning permission/building permission, with a view to demolish and reconstruct the already existing dilapidated building on the petition premises which is at the stage of falling apart. With the imminent arrival of monsoon season, there is every likelihood that the building might give way and certain portions of the building may collapse. After the Second Respondent conducted inspection of the site in question, the planning permission/building permission were issued by the Respondents/Corporation of Chennai on 01.10.2013. Further, the permission for demolition and reconstruction is admittedly time bound and the period of three years for demolition and reconstruction, according to the Petitioners, expired on 30.09.2016 as stated in the proceedings regarding planning permission and the building permission also got expired on 30.09.2015.

4. The grievance of the Petitioners is that the demolition works authorised by the Respondents could not be carried out, since the Petitioners were unable to even enter into the petition premises. A Lawyer's Notice was issued to the Respondents on 04.05.2015 narrating the difficulties faced while making an endeavour to demolish the old structure. Subsequently, another Lawyer's Notice dated 13.07.2018 was issued to the Respondents. But these notices ended in vain. Hence, the Petitioners, left with no other alternative, have preferred the present Writ Petition for the relief stated supra.

5. It appears that the Respondents-Corporation of Chennai had issued planning permission, by proceedings dated 01.10.2013, which was valid upto 30.09.2016. However, the building permission, issued by the Respondents-Corporation of Chennai, by proceedings dated 01.10.2013, mentions that the construction work should begin by 31.03.2014 and the same was to end by 30.09.2015. As on date, the Petitioners are not possessed with either planning permission or building permission, since the period mentioned therein had already expired.

6. Furthermore, the Petitioners have not even mentioned one or two names of the illegal occupants and local dwellers in the present Writ Petition filed by them. Looking at any point of view, the Writ Petition sans merits.

7. In fine, the Writ Petition is dismissed, leaving the parties to bear their own costs.

8. Before parting with the case, it is made clear that the dismissal of the present Writ Petition will not preclude the Petitioners to move appropriate competent civil forum in regard to the unlawful encroachment made by the illegal occupants and local dwellers in the petition mentioned property for redressal of their grievances, of course, in the manner known to law and in accordance with law, if they so desire/if they are so advised.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

cs

To

1. The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai-600 003.
2. The Assistant Executive Engineer,
Corporation of Chennai,
Division 63, Veerabadran Street,
Pudupet, Egmore,
Chennai-600 002.

+1 cc to Mr.P.B.Ramanujam, Advocate, Sr.No.77891

+1 cc to Mr.K.Soundararajan, Advocate, Sr.No.78070

KK(CO)
CSL/04.12.2018

W.P.No.29670 of 2018

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