

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2018

CORAM

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.26684 of 2018

M/s.Nawab Khairunissa Begum Sahiba Endowment
and Hazrath Pappu Masthan Dargah Wakf
Rep. by its President/Muthavalli
Dr.G.S.M.P.Khaderi, having his office at
No.31, Big Street, Triplicane
Chennai - 600 005. .. Petitioner

Vs

- 1 The Commissioner
Corporation of Chennai
Ripon Buildings, EVR Salai
Periamet, Chennai - 3.
- 2 The Superintending Engineer
Regional Deputy Commissioner
Office (Central)
Corporation of Chennai
Door No.36-B, 2nd Cross Street
Pulla Avenue, Shenoy Nagar
Chennai - 30.
- 3 The Executive Engineer
Zone IX, Corporation of Chennai
No.1, Lake Area, 4th Cross Street
Nungambakkam
Chennai - 34.
- 4 The Area Engineer
Zone IX Division No.121
Corporation of Chennai
No.2, Dr.Besant Road, Chennai - 5.
- 5 Elevarasan
- 6 Maheshwari

7 The Chief Executive Officer
Tamil Nadu Wakf Board
No.1, Jaffer Syrang Street
Vallal Seethakathi Nagar
Chennai - 1.

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of Mandamus directing the respondents 1 to 4 to consider the petitioner's representation dated 28.7.2018 and to initiate action against respondents 5 and 6 for the illegal construction made by them in the property bearing Door No.36, Pappu Masthan Dargah Main Street, Dr.Natesan Road, Triplicane, Chennai - 600 005.

For Petitioner : Mr.S.Hussain Afroze

For Respondents : Mr.R.Arunmozhi
Standing Counsel
for respondents 1 to 4
Mr.R.Sathyakumar
for respondents 5 and 6

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

The prayer of the petitioner in this petition is to direct respondents 1 to 4 to consider his representation dated 28.7.2018 and initiate action against respondents 5 and 6 for the illegal construction put up by them in the property bearing Door No.36, Pappu Masthan Dargah Main Street, Dr.Natesan Road, Triplicane, Chennai - 600 005.

2. The learned counsel for respondents 1 to 4 has filed a counter affidavit. Paragraphs 6 to 8 of the said counter affidavit, which are relevant, are reproduced below:

"6. I respectfully submit that since the fifth respondent herein has failed to comply with the above notice the entire building has been treated as unauthorized construction. I further submit that the measurements of the building in question are as follows:-

Sl. No.	Description	As per Plan (Sq.m.)	As per site (Sq.m.)	Deviated/ Unauthorized (Sq.m.)
1	Ground Floor	-	49.85 sq.m.	49.85 sq.m.
2	First Floor	-	49.85 sq.m.	49.85 sq.m.
3	Second Floor	-	49.85 sq.m.	49.85 sq.m.

7. I respectfully submit that since the fifth respondent has failed to submit any approved plan further action has been initiated by issuing a Locking and Sealing and Demolition Notice under Section 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 dated 24.10.2018 to the fifth respondent herein which was received by the fifth respondent on 26.10.2018.

8. I respectfully submit that further action against the fifth respondent building will be taken as per the provisions of Tamil Nadu Town and Country Planning Act, 1971."

3. The learned counsel for respondents 5 and 6 has filed counter affidavit raising various defences. However, since respondents 1 to 4 have already initiated action against respondents 5 and 6, it is open to respondents 5 and 6 to raise all the defences stated in their counter affidavit while replying to the notice issued under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971.

4. In view of the fact that the representation of the petitioner dated 28.7.2018 has been considered and action has also been initiated by respondents 1 to 4, nothing further survives for adjudication in this petition.

The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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TO

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Chennai - 1.

+ 1 cc to M/s. R. Aranmozhi, Advocate Sr.80829
+ 1 cc to M/s. T.Velumani, Advocate Sr.81003
+ 1 cc to M/s. R. Sathiyakumar, Advocate Sr.80795

सत्यमेव जयते

W.P.No.26684 of 2018

RK(CO)
EU(07/12/2018)

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