

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.No.26964 of 2018 and
WMP Nos.31343 and 31345 of 2018

M.Kalyani

...Petitioner

-vs-

- 1.The Commissioner,
Corporation of Chennai
Rippon Buildings, Chennai - 600 003.
- 2.The Executive Engineer,
Corporation of Chennai,
Zone - X, Saidapet, Chennai - 600 015.
- 3.The Assistant Executive Engineer,
Unit 30 Division 142, Corporation of Chennai,
Zone - Z, Saidapet, Chennai - 600 015.
- 4.The Assistant Engineer,
Division 142, Corporation of Chennai,
Zone - X, Saidapet, Chennai - 600 015.
- 5.The Chennai Metropolitan Development Authority,
Represented by its Member Secretary.

...Respondents

(R5 suo motu impleaded as per order dated
10.10.2018 by KKSJ & RSMJ in W.P.No.26964/2018)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records relating to the impugned De-Occupation Notice issued by the respondents 2 to 4 under Section 56(2) (A) and Section 57 r/w Section 85 of Town and Country Planning Act, as amended by Act 61 of 2008 in Letter No.10/00004/2018 dated 28.08.2018 in the building at Door No.14, V.V.Koil Street, West Saidapet, 600 015, quash the same.

For Petitioner : Mr.Venkatramani
Senior Counsel for
Mr.A.Saravanan

For Respondents : Mr.R.Arunmozhi for R1 to R4
Mr.S.Thiruvengadam for R5

O R D E R

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

The De-Occupation notice issued by the Corporation of Chennai is under challenge at the instance of the petitioner, who is stated to be running a ladies hostel without permission from the local body.

2. The De-Occupation Notice dated 28 August 2018 is amenable to the appellate jurisdiction under Section 113-A(6) of the Town and Country Planning Act, 1971. The Appellate Authority is vested with the jurisdiction to pass interim orders during the currency of the appeal.

3. The petitioner has not filed any appeal before the Appellate Authority so far. We therefore give liberty to the petitioner to file an appeal before the Appellate Authority. The petitioner is having sufficient time to file an appeal. In case, any such appeal is filed, the same shall be considered and disposed of by the Appellate Authority on merits and as per law. The building has already been sealed. It is open to the petitioner to file appropriate application for interim relief before the Appellate Authority. It is for the Appellate Authority to decide as to whether the building should be de-sealed during the currency of the appeal.

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

Sd/-
Assistant Registrar(CS vii)
//True Copy//

Sub Assistant Registrar

svki
To

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

2.The Executive Engineer,
Corporation of Chennai,
Zone - X, Saidapet, Chennai - 600 015.

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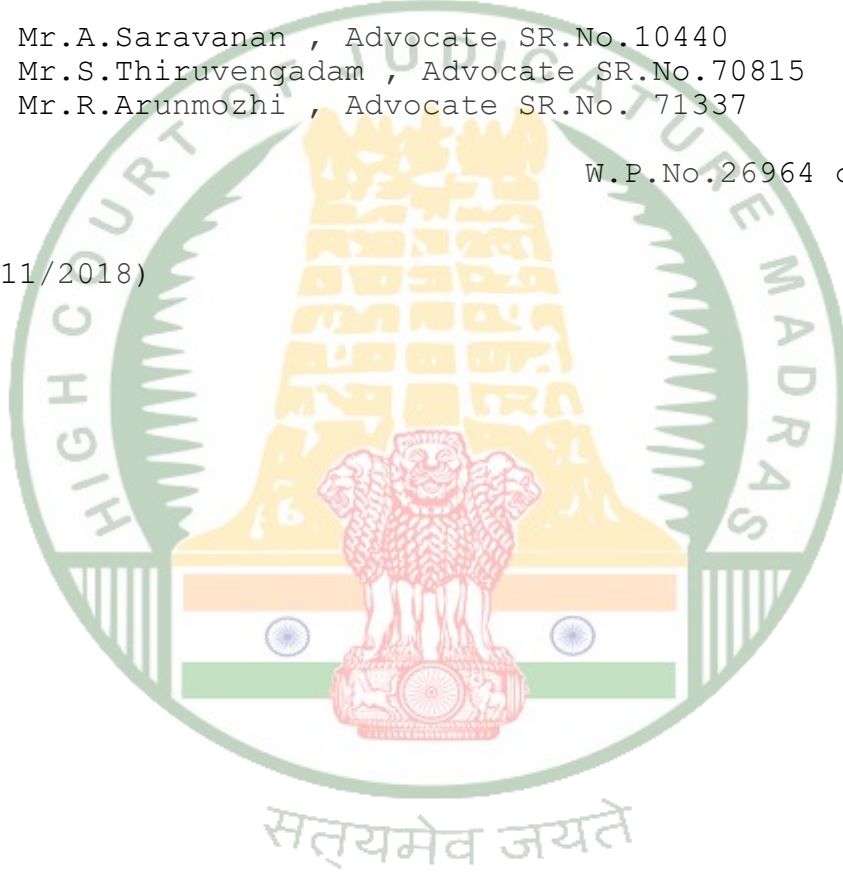
4.The Assistant Engineer,
Division 142, Corporation of Chennai,
Zone - X, Saidapet, Chennai - 600 015.

5.The Member Secretary.
The Chennai Metropolitan Development Authority,
chennai

+1cc to Mr.A.Saravanan , Advocate SR.No.10440
+1cc to Mr.S.Thiruvengadam , Advocate SR.No.70815
+1cc to Mr.R.Arunmozhi , Advocate SR.No. 71337

W.P.No.26964 of 2018

ASK(08/11/2018)



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