

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2019

CORAM

THE HON'BLE Mr. JUSTICE M.DHANDAPANI, J.

W.P.No.40977 of 2005
W.P.M.P.No.43968 of 2005

Rajendran

...Petitioner

vs

1. The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai-600 034.

2. The Zonal Officer,
Zone VII
Nungambakkam,
Chennai-600 034.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to call for the records of the 1st respondent order dated 11.11.2005 and the 2nd respondent letter Z.O.VII.C.No.1250/2005 dated 17.8.2005 and quash the same as illegal.

For Petitioner : Mr.J.Saravana Vel

For Respondents: Mr.R.Arunmozhi,
Standing Counsel,
for Chennai Corporation.

सत्यमेव जयते
O R D E R

The petitioner has filed a writ petition for issuance of a Writ of Certiorari, to call for the records of the 1st respondent order dated 11.11.2005 and the 2nd respondent letter Z.O.VII.C.No.1250/2005 dated 17.08.2005 and quash the same as illegal.

2. The 2nd respondent has addressed a letter to the petitioner dated 17.08.2005, in which it is stated that only maintenance work like white washing the walls were carried out and have not undertaken new construction. But the additional construction carried out by the petitioner for constructing

brick walls on 3 sides, to make it to a shop with the existing asbestos cement sheet roof to an extent of 55sft and then the work was immediately stopped and notice under Section 236 Chennai City Municipal Corporation Act III of 1919 (herein after called "Act") was issued on 31.01.2004. Even thereafter, the construction was carried out by the petitioner, whereby the second respondent herein stated that the petitioner has not complied with the notice under Section 236 Act issued, further action was taken and notice under Section 256(1) &(2) Act was issued on 10.02.2004. Therefore, the first respondent/The Commissioner issued a notice under Section 256(3), Act IV of 1919, and directed the petitioner to remove the unauthorized construction. Challenging the same, the present writ petition is filed.

3. The learned counsel for the petitioner would submit that the petitioner did not encroached the road portion or made any other unauthorized construction, and he constructed the building in his own property only. The learned counsel would further submit that without giving any opportunity to the petitioner, a notice was issued by the respondent board is illegal one.

4. The learned Standing counsel for the respondent refuted the allegations raised by the petitioner and justified the impugned orders.

5. In view of the above lines, this Court is inclined to quash the proceedings dated 11.11.2005 and 17.08.2005 on the ground of violation of principle of natural justice. Accordingly, the 1st respondent order dated 11.11.2005 and the 2nd respondent letter Z.O.VII.C.No.1250/2005 dated 17.08.2005 are quashed. The respondent corporation is directed to measure the property, if the petitioner has constructed the building in unauthorized road portion, then liberty may be granted to the respondent Corporation to demolish the building in accordance with law and to pass an appropriate order within a period of four weeks from the date of receipt of a copy of this Order.

6. With the above directions, the writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Insp Cell)

//True Copy//

Sub Assistant Registrar

ssb

To

1. The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai-600 034.

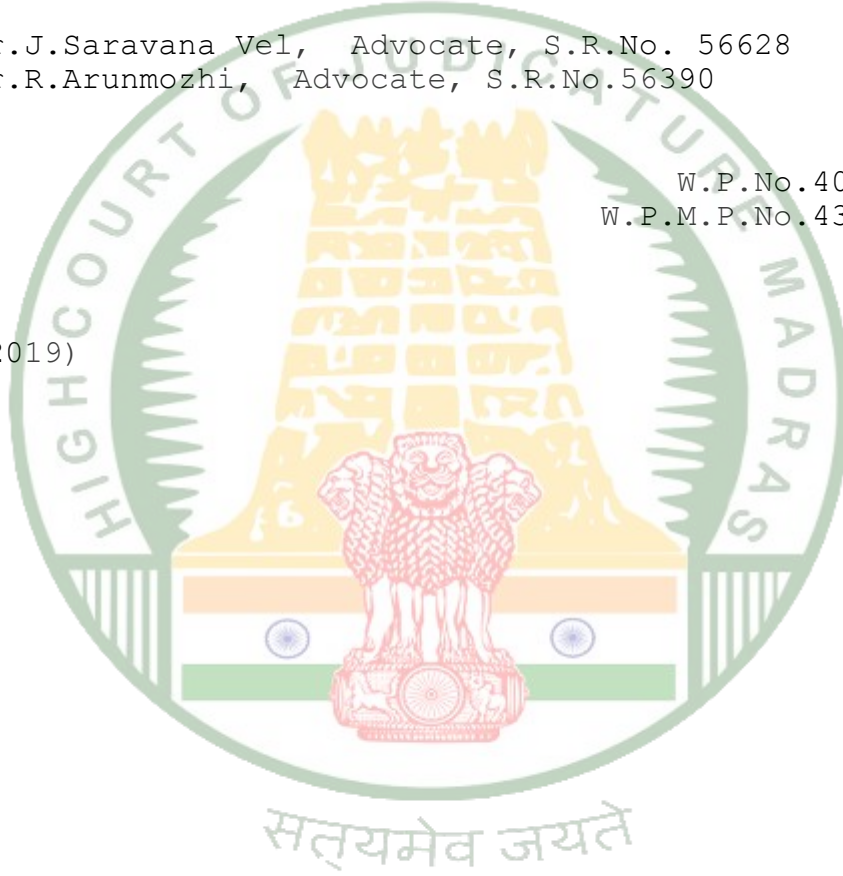
2. The Zonal Officer,
Zone VII
Nungambakkam,
Chennai-600 034.

+1cc to Mr.J.Saravana Vel, Advocate, S.R.No. 56628

+1cc to Mr.R.Arunmozhi, Advocate, S.R.No.56390

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RSV(CO)
GN(16/08/2019)



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