

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2019

CORAM

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

W.P.No.17192 of 2018

N.S.Kalyanasundaram

.. Petitioner

Vs.

1 The Member-Secretary
Chennai Metropolitan Development Authority
Egmore, Chennai - 600 008.

2 The Chief Executive Officer
Cantonment Board
North Parade Road
St.Thomas Mount
Chennai - 600 016.

3 Vijayalakshmi

4 Kamala

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of mandamus to direct the 2nd respondent to demolish the illegal construction put up by the 3rd and 4th respondents at No.5/81, Butt Road, St.Thomas Mount, Chennai-600 016, encroaching the public road, thus blocking the ingress and egress to the petitioner's property and consequently restore the original road.

For Petitioner

: Mr.R.Dhamodaran

For Respondents

: Mr.Karthik Rajan
for 1st respondent

Mr.Chavanan Mohan
for M/s.King and Partridge
for 2nd respondent

No appearance
for respondents 3 and 4

ORDER

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

Heard Mr.R.Dhamodaran, learned counsel for the petitioner; Mr.Karthik Rajan, learned counsel for the first respondent and Mr.Chavanan Mohan, learned counsel for the second respondent.

2. The petitioner is seeking directions to the second respondent, i.e., the Chief Executive Officer, Cantonment Board, to demolish the illegal construction put up by respondents 3 and 4 at No.5/81, Butt Road, St.Thomas Mount, Chennai-600 016. According to the petitioner, the said construction encroaches the public road and thus is blocking the ingress and egress to the petitioner's property.

3. The learned counsel for the second respondent has filed counter, wherein it is stated that there are deviations in the construction put up by respondents 3 and 4 on the ground floor, first floor, second floor and the third floor. The total deviation from the approved sanctioned plan is 3535 Sq.Ft. In the affidavit, it is stated that in relation to the deviation, the second respondent initiated action vide letter dated 8.8.2017 and issued notice under Section 247 of the Cantonment Act, 2006 to respondents 3 and 4 and one Muthukumaraswamy for unauthorized construction against sanctioned plan. Thereafter, the second respondent has issued a notice dated 8.8.2017 under Section 239(1) of the cantonment Act to respondents 3 and 4 and Muthukumaraswamy for stoppage of building work. Subsequently, the second respondent issued notice dated 23.7.2018 under Section 248(1) of the Cantonment Act, 2006 to respondents 3 and 4 and Muthukumarasamy for demolition of unauthorized construction.

4. The learned counsel for the second respondent further pointed out from the affidavit that the second respondent issued notice under Section 247 of the Cantonment Act to respondents 3 and 4 and Muthukumarasamy for deviation of construction from original sanctioned plan on the said piece of land. The said notice is dated 23.7.2018. Thereafter, the second respondent issued notice dated 14.9.2018 under Section 248(1) of the

Cantonment Act to respondents 3 and 4 and Muthukumarasamy for demolition of unauthorized construction of the said building.

5. The learned counsel for the second respondent pointed out that respondents 3 and 4 along with Muthukumarasamy have preferred an appeal under Section 340 of the Cantonment Act against the notices dated 23.7.2018 and 14.9.2018.

6. From the above, it is seen that the second respondent is taking action in relation to the illegal construction put up by the respondents 3 and 4, which is in deviation from the approved sanctioned plan. Thus, no further orders are necessary at this stage.

The writ petition is disposed of accordingly. No costs. Consequently, W.M.P.No.20463 of 2018 is closed.

s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

sasi

To:

- 1 The Member-Secretary
Chennai Metropolitan Development Authority
Egmore, Chennai - 600 008.
- 2 The Chief Executive Officer
Cantonment Board
North Parade Road
St.Thomas Mount
Chennai - 600 016.

+1 CC to Mr.R.Dhamodaran, Advocate sr 24001.
+1 CC to Mr.KArthik Rajan, Advocate sr 24104.
+1 CC to M/s.King and Partridge, sr 24630.

WEB COPY

W.P.No.17192 of 2018

SSV(CO)
SP(04/04/2019)