

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI  
AND

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

Writ Petition No.18283 of 2019  
and

W.M.P.No.17642 of 2019

Gerold Rajkumar

... Petitioner

-Vs-

- 1.The Member Secretary  
Chennai Metropolitan Development Authority  
Thalamuthu Natarajan Building  
No.1, Gandhi Irwin Road  
Egmore, Chennai - 600 008.
  - 2.The Commissioner, Greater Chennai  
Corporation, Rippon Building  
Chennai - 600 003.
  - 3.The Commissioner  
Thiruverkadu Municipality  
Thiruverkadu, Chennai.
  - 4.The Assistant Planner  
Chennai Metropolitan Development Authority  
No.1, Gandhi Irwin Road, Egmore  
Chennai - 600 008.
- ... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the entire records concerned with the impugned Notice No.A.1789 dated 29.03.2019, issued by the first respondent pertaining to the property being Plot No.2 ad 3 at ICL Home Town, Phase II, Noombal Village, Maduravoyal, Thiruverkadu Municipality land comprised in New S.No.126/2C admeasuring 4800 squarefeet or thereabouts and superstructure put up there as per the approvaed Plan No.189/2018 issued by the third respondent and quash the same from proceedings initiated under Section 56 and 57 of the Town and Country Planning Act, 1961 as amended by Act 61 of 2008.

For Appellant : Mr.V.Sivalinkam

For Respondents : Mr.Karthik Rajan - for R1 & R4  
Mr.K.Soundararajan - for R2  
Mr.R.Mohan Doss - for R3

O R D E R

(Order of the Court was made by DR.VINEET KOTHARI, J.)

This writ petition is filed by one Gerold Rajkumar against the Chennai Metropolitan Development Authority (hereinafter referred to as 'CMDA') and the Commissioner, Thiruverkadu Municipality on the ground that the authorities of the Thiruverkadu Municipality had suddenly issued a 'Stop Work Notice' to the petitioner, even though the petitioner was undertaking the construction of his property, in accordance with the approved plan vide Planning Permit No.189/2018 dated 16.07.2018, a copy of which is placed on record.

2. Upon issuance of notice, the CMDA entered appearance through the Standing Counsel Mr.Karthik Rajan. Mr.Mohan Doss, learned counsel appearing for the third respondent Thiruverkadu Municipality has submitted that the Notice No.1/2019/F1 dated 29.3.2019 under Section 56 & 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971, bears the acknowledgment of the recipient of the said notice, which is addressed to the petitioner - B.Jerold Rajkumar, G.Charles Titus, 75/1, ICL Home Town, Noombal, Chennai 600 07, in which it is stated that the inspection for the site at S.No.126/2C, P.No.2&3, Noombal Village has been carried out and the construction in question has some deviations.

3. Learned counsel appearing for the Thiruverkadu Municipality, therefore, submitted that the petitioner, without replying to the said notice, and get the said deviations ascertained, has approached this Court, by way of the present writ petition. Learned counsel for the petitioner, however, submits that no such notice has been served upon the petitioner.

4. We are not inclined to interfere with the present writ petition at this stage. We direct that the copy of the notice said to be served to the petitioner, shall be handed over to the learned counsel for the petitioner in the Court itself today. We further direct the petitioner to submit his reply to the said notice before the concerned authority and if physical inspection of the property is still required, the authorities of the Municipality will be at liberty to undertake such physical inspection, and the petitioner shall cooperate with the same. If any such deviation is found in the construction, the concerned authority will be at liberty to issue show cause notice to the petitioner with respect to such deviations found in the construction. The petitioner, thereafter, may proceed in accordance with law, by submitting

his reply to the deviations, to the concerned authority. On receipt of such reply, the concerned authority is expected to pass suitable orders. Without undergoing the said procedure, the municipal authorities shall not order any demolition of the construction being undertaken by the petitioner. These directions are issued in the interest of justice and in compliance with the principles of natural justice.

5. With the above observations, the writ petition is disposed of. However, there shall be no order as to costs. Consequently. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

KST

To

- 1.The Member Secretary  
Chennai Metropolitan Development Authority  
Thalamuthu Natarajan Building  
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Egmore, Chennai - 600 008.
- 2.The Commissioner, Greater Chennai  
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Thiruverkadu Municipality  
Thiruverkadu, Chennai.
- 4.The Assistant Planner  
Chennai Metropolitan Development Authority  
No.1, Gandhi Irwin Road, Egmore  
Chennai - 600 008.

+1cc to Mr.R.Mohandoss, Advocate, S.R.No. 54164  
+1cc to Mr.Karthik Rajan, Advocate, S.R.No.54235

W.P.No.18283 of 2019

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