

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12/12/2019

C O R A M

THE HON'BLE MR.JUSTICE R.SUBBIAH
&
THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Writ Petition No.23302 of 2019

Mr.Syed Shahzada

...

Petitioner

Vs

1. State of Tamil Nadu
rep. By the Secretary
Department of Housing and Urban Development
Fort St. George
Chennai 600 009.
2. The Member Secretary
Chennai Metropolitan Development Authority
No.1 Gandhi Irwin Road
Egmore
Chennai 600 008.
3. The Zonal Officer
Zone IX (Teynampet)
No.4, 4th Cross Street
Lake View Road
Chennai 600 034.
4. The Chota Naksha Charities
8/15 Hussain Ali Khan, II Street
Royapettah
Chennai 600 014.
5. Suhail Hyder Khan
6. The Assistant Executive Engineer
Tamil Nadu Electricity Board
Royapettah 2
Chennai 600 014.

7. The Managing Director
Chennai Metro Water Supply and Sewage Board
Chennai 600 002.

8. The Chairman
Tamil Nadu Wakf Board
Chennai 600 001.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of mandamus to direct the respondents 1 to 3 to take appropriate action more fully locking and sealing all the unauthorized constructions in the land belonging to fourth respondent.

For petitioner ... Mr.N.Alagu Narayanan
for M/s.RRN Legal

For respondents ... Mr.V.Shanmuga Sundar
Special Government Pleader
for R.1.

Mrs.Veena Suresh for R.2.

Mr.V.C.Selvasekaran for R.3.

Mr.N.A.N.Issar Ahmed
for R.R.4 and 5

Mr.P.R.Dhilip Kumar for R.6.

Mr.G.Janakiraman for R.7.

Mr.V.Lakshmi Narayanan
for R.8.

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O R D E R

(Order of the Court was made by R.Subbiah, J)

Instant writ petition has been filed to direct the respondents 1 to 3 to take appropriate action more fully locking and sealing all the unauthorized constructions in the land belonging to fourth respondent.

2. In the affidavit it has been stated that M/s. Chota Naksha Charities, fourth respondent is a public Wakf, under the supervision of Tamil Nadu Wakf Board. Claiming to be the owner

of the land belong to fourth respondent, fifth respondent is constructing new buildings, without proper approval from CMDA. Petitioner had reported the irregularities to the Wakf Board. Thereafter, sent a representation to the second respondent. Since no action was taken, petitioner has filed W.P.No.21910 of 2018. By observing that the fourth respondent had preferred an appeal against the deoccupation notice and also the authorities are taking action in relation to the unauthorised construction put up by the third respondent, vide, order, dated 2/4/2019, a Hon'ble Division Bench of this Court, disposed of the writ petition.

3. Even though eight months have lapsed, from the date of the order made in W.P.No.21910 of 2018, till date no action has been taken. Hence petitioner has come forward with the instant writ petition praying for the relief as stated supra.

4. Heard the learned counsel for the parties and perused the materials available on record.

5. Learned counsel for the fifth respondent submitted that he has filed an appeal before the first respondent, on 28/3/2019 and the same is pending. He further denies the statement of the petitioner that he is constructing the building in the land belong to the fourth respondent.

6. Learned counsel appearing for the petitioner submitted that fifth respondent has not furnished the particulars about the appeal.

7. In view of the submission made by the learned counsel appearing for the fifth respondent, writ petition filed by the petitioner, for a mandamus, directing the respondents 1 to 3 to take appropriate action, is not maintainable. Therefore, we are of the opinion that first respondent may be directed to dispose of the appeal.

8. Accordingly, first respondent is directed to dispose of the appeal preferred by the fifth respondent, preferably, within a period of eight weeks, from the date of receipt of a copy of this order, after affording an opportunity to the petitioner as well as to the fourth respondent Wakf to put forth their contention in the said appeal.

9. With the above direction, writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary
State of Tamil Nadu
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Chennai 600 009.
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Chennai 600 002.
6. The Chairman
Tamil Nadu Wakf Board
Chennai 600 001.

+1cc to Government Pleader SR.NO. 104533
+1cc to M/s.N.A.Nissar Ahmed, Advocate sr.104132
+1cc to M/s.P.Veena Suresh, Advocate sr.103540

W.P.No.23302 of 2019

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nr 30/01/2020