

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2019

CORAM

THE HONOURABLE DR.VINEET KOTHARI, ACTING CHIEF JUSTICE
AND

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.28283 of 2019

and

W.M.P.No.27959 of 2019

P.Jacob

..Petitioner

Vs.

1. The Commissioner,
Corporation of Chennai,
Rippon Buildings, Park Town,
Chennai 600 003.
2. The Executive Engineer-Zone V,
Corporation of Chennai,
36B/12B, Pulla Avenue Road,
Shenoy Nagar, Chennai 600 030.
3. The Assistant Engineer,
Division 108,
Corporation of Chennai,
13, MGR 3rd Street, MMDA Colony,
Arumbakkam, Chennai 600 106.
4. Raja
5. Babitha

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing Respondents 1 to 3 to ensure that no construction violative of or in deviation by the 4th and 5th Respondents as per the Development Control Rules framed under the Tamil Nadu Town and Country Planning Act, 1971 and the Building Regulations under the Chennai City Municipal Corporation Act, 1919 is carried on in New No.47 (Old No.24), Gandhi Road, Chennai 600 094.

For petitioner : Mr.K.Sevagan
for M/s.Rank Associates

For R1 to R3 : Dr.C.Ravichandran

ORDER

(Order of the court was made by Dr.VINEET KOTHARI, ACJ.)

The grievance of the Petitioner in this Writ Petition is that Respondent No.4, Mr.Raja and Respondent No.5, Ms.Babitha, both residing at No.47 (Old No.24), Gandhi Road, Choolaimedu, Chennai 600 094, are raising a construction in the manner which is likely to affect the easementary rights of the Petitioner.

2. The Petitioner further submits that he has made a representation to the Authority concerned viz., Respondent No.1, The Commissioner, Corporation of Chennai on 14.8.2019 and in the absence of any response from them, the Petitioner has approached this court by way of present Writ Petition.

3. Having heard Mr.K.Sevagan, learned counsel for the Petitioner and Dr.C.Ravichandran, learned counsel for Respondents 1 to 3/Corporation of Chennai, we are satisfied that several questions of fact are yet to be determined as to whether the construction in question has been put up by obtaining due approval from the Authorities concerned. Further, such question of facts has to be established by the Petitioner which could be conveniently done in Civil Proceedings before the competent Civil Court.

4. In these circumstances, we are of the opinion that the present Writ Petition deserves to be disposed with a direction to Respondent No.4 to dispose of the representation dated 14.8.2019 after affording an opportunity of hearing to the Petitioner. Accordingly, the Petitioner is directed to appear before Respondent No.1 for the first instance on 14.10.2019 and Respondent No.1 is directed to decide the representation within a period of 3 weeks thereafter. If any adverse order is passed, the Petitioner is free to avail the remedy by way of Civil Suit in competent Civil Court. With this observation, the Writ Petition is disposed. No costs. The connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:

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

2. The Executive Engineer-Zone V,
Corporation of Chennai,
36B/12B, Pulla Avenue Road,
Shenoy Nagar, Chennai 600 030.

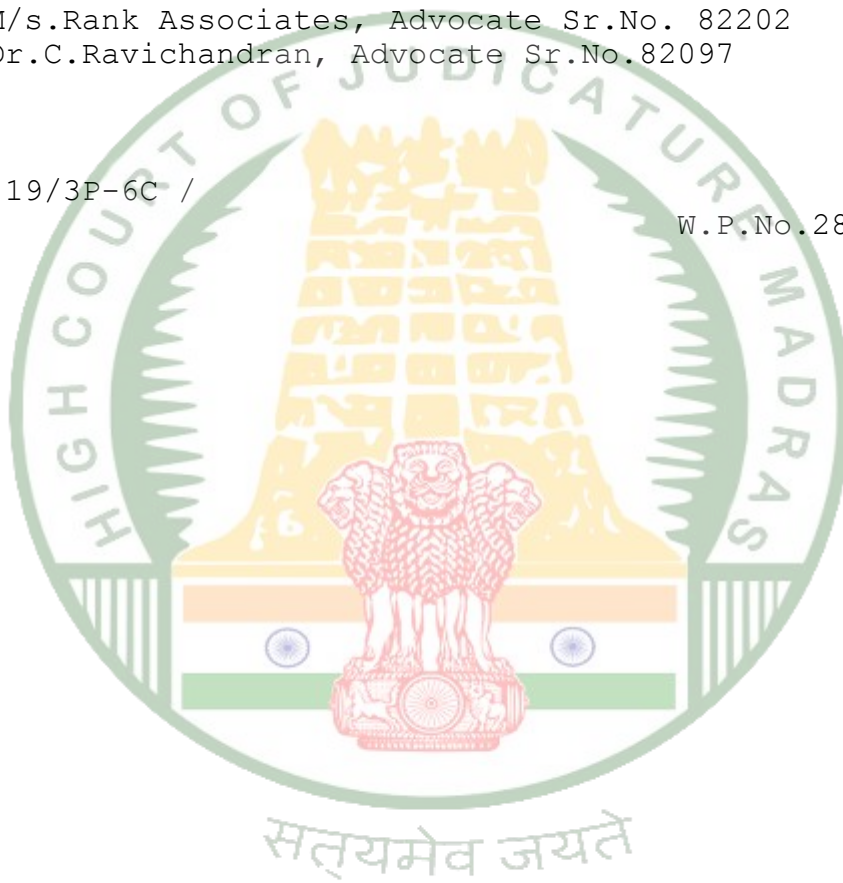
3. The Assistant Engineer,
Division 108,
Corporation of Chennai,
13, MGR 3rd Street, MMDA Colony,
Arumbakkam, Chennai 600 106.

+1 cc to M/s.Rank Associates, Advocate Sr.No. 82202

+1 cc to Dr.C.Ravichandran, Advocate Sr.No.82097

AKM/04.10.19/3P-6C /

W.P.No.28283 of 2019



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