

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.11.2019

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.31411/2019 & WMP.No.31829/2019

P.Kannan

..Petitioner

Versus

1.The Commissioner
Poonamallee Municipality
Poonamallee, Chennai-56.

2.Chennai Metropolitan Development Authority
Thalamuthu Natarajan Maaligai
No.1 Gandhi Irwin Road, Egmore
Chennai 600008.

3.The Collector
Office of the Collector
Thiruvallur, Thiruvallur District.

4.B.Mahimaiddoss

..Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the records relating to the order of the 1st respondent impugned demolition notice Na.Ka.No.12/2019/R1 dated 23.10.2019 and quash the same in respect of petitioner's property situated at bearing Door No. Old No.5, New No.3, Cross Street, Srinivasan Nagar, Lakshmipuram, Poonamallee, Chennai-56.

For Petitioner : Mr.C.B.Murali Krishnan
For R1 : Mr.P.Srinivas
For R2 : Mr.P.S.Ganesh
For R3 : Mr.E.Manoharan, AGP

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

(1)By consent, the writ petition is taken up for final disposal. Mr.P.Srinivas, learned Standing counsel accepts notice on behalf of the 1st respondent ; Mr.P.S.Ganesh, learned Standing counsel accepts notice on behalf of the 2nd respondent and

Mr.E.Manoharan, learned Additional Government Pleader accepts notice on behalf of the 3rd respondent.

- (2) One Mahimaiddoss, who is arrayed as the 4th respondent herein, on an earlier occasion had approached this Court by filing WP.No.13814/2019 praying for issuance of a writ of mandamus, directing respondents 1 to 3 herein to consider and dispose of his representation dated 19.11.2018 and to take action against the unauthorised and illegal construction put up by the 4th respondent therein, viz., the writ petitioner herein. The Hon'ble First Bench of this Court, vide order date 01.07.2019, after hearing the respective learned counsel for the parties and after taking note of the submissions of the learned standing counsel appearing for the 1st respondent and after putting the 4th respondent therein/writ petitioner herein on notice, passed appropriate orders. Thereafter, the petitioner herein was issued with the impugned two notices dated 23.10.2019 by the 1st respondent Municipality under Sections 205[1] and [2] and under Section 218 of the Tamil Nadu District Municipalities Act, 1920 and challenging the legality of the said notices, the present writ petition is filed.
- (3) The learned counsel for the petitioner would submit that the 1st respondent Municipality had accorded Planning Permission in 68/16 bearing Letter No.435/16/F1 dated 02.05.2016 for construction of ground + 2 Floors and according to the learned counsel for the petitioner, the said superstructure has been put up strictly in accordance with the sanctioned plan and it is also subject to statutory levies. The petitioner in this regard, has also submitted his response dated 28.10.2019 to the 1st respondent.
- (4) The Court heard the submissions of Mr.P.Srinivas, learned counsel appearing for the 1st respondent ; Mr.P.S.Ganesh, learned Standing counsel appearing for the 2nd respondent and Mr.E.Manoharan, learned Additional Government Pleader appearing for the 3rd respondent and also perused the materials placed before it.
- (5) Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the 1st respondent to put up the petitioner as well as the 4th respondent on notice, and thereafter, cause inspection of the petitioner premises bearing Old Door No.5, New No.3, Cross Street, G.R.Srinivasan Nagar, Poonamallee, Chennai-56, to find out whether the superstructure has been put up strictly in accordance with the above cited plan and if any infraction is noted, shall proceed against the offending construction if any, in accordance with law and take

appropriate action and the entire exercise shall be completed within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to the 4th respondent herein and till such time, further proceedings in terms of the impugned notices dated 23.10.2019, shall be deferred. It is also made clear that the writ petitioner, till the completion of the exercise by the 1st respondent, as directed by this Court in terms of the present order, shall not create any third party rights in respect of the land and superstructure in question.

(6) In the result, the writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petition stands closed.

s/d-
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Commissioner
Poonamallee Municipality
Poonamallee, Chennai-56.
2. Chennai Metropolitan Development Authority
Thalamuthu Natarajan Maaligai
No.1 Gandhi Irwin Road, Egmore
Chennai 600008.
3. The Collector
Office of the Collector
Thiruvallur, Thiruvallur District.

+1 CC to Mr.P.S.Ganesh, Advocate sr 93151.
+1 CC to Mr.C.B.Murali Krishnan, Advocate sr 92935.
+1 CC to Mr.P.Srinivas, Advocate sr 93261.
+1 CC to The Govt. Pleader sr 93766.

WP.No.31411/2019

VBA (CO)
SP(09/12/2019)