

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18.01.2019

Coram

THE HONOURABLE Mr. JUSTICE M.VENUGOPAL
AND
THE HONOURABLE Mr. JUSTICE R.PONGIAPPAN

W.P.No.33698 of 2017

G.Govindaraj

.. Petitioner

Vs.

1. The District Collector,
O/o Chennai District,
Chennai
 2. The Member Secretary,
Chennai Metropolitan Development Authority,
'Thalamuthu Natarajan Building',
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008
 3. The Managing Director,
Chennai Metropolitan Water Supply and
Sewerage Board, Chindatripet,
Chennai - 600 002
 4. The Chairman,
Tamilnadu Electricity Board,
Anna Salai, Chennai - 600 002
 5. Kgeyes Residency Private Ltd.,
rep. By its Managing Director,
Srushdissthal, New No.10, 2nd Cross Street,
Raja Annamalaipuram,
Chennai - 28
- .. Respondents

Prayer: Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus directing the Respondents 1 to 4 to initiate proceedings on the basis of representation dated 04.04.2016 in respect of the encroachment and violation of construction of building by the 5th Respondent.

For Petitioner : No appearance

For Respondents: Mr.S.N.Parthasarathy for R1
Government Advocate

Mr.Karthick Rajan for R2
Mr.N.Ramesh for R3
Mr.S.K.Rameshwar for R4

O R D E R

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

According to the Petitioner, he is a social worker espousing the grievances of general public in the public offices and doing social work without any gain from the public. His stand is that the 5th Respondent without valid permission is constructing 12 floors for residential and commercial purpose and in view of that, the entire people in the Ashok Nagar area is facing more water scarcity and drainage problem, he made a representation to initiate suitable action against the 5th Respondent / Promoters.

2. The grievance of the Petitioner is that the Respondents 1 to 4 had not taken any proceedings, although he made a representation on 04.04.2016 to them to initiate suitable proceedings in respect of unauthorised construction put up by the 5th Respondent and although one year had elapsed in this regard, he made an application under Right to Information Act before the 3rd Respondent and was informed that there is no permission for application seeking water and sewerage facilities to the building situated at No.22/97, Dr.Ambedkar Road, Chennai - 600 083. Since the Petitioner has no other alternative, he has filed the present Writ Petition praying for passing of an order in directing the Respondents 1 to 4 to initiate proceedings on the basis of his representation dated 04.04.2016 in respect of the encroachment and violation in regard to construction of the building by the 5th Respondent.

3. Per contra, it is the submission of the Learned Counsel for the 3rd Respondent that the 5th Respondent / Kgeyes Residency Private Limited after getting Completion Certificate from the Chennai Metropolitan Development Authority [CMDA] had applied for new Water and Sewer connection for the premises bearing 27/4 Dr.Ambedkar Salai, Kodambakkam, at registration wing in Chennai. The premises was inspected by the Concerned Officials and was found to be in order and accordingly, the Competent Authority

had approved the water and sewer application for effecting the said connections. As per the Citizens Charter, New Water and Sewer connections has to be effected within one month from the date of registration. As a matter of fact, the 5th Respondent / Kgeyes Residency Private Ltd., had only applied for water and sewer connection only on 12.03.2018 after obtaining completion certificate from the 2nd Respondent.

4. The clear cut stand of the 3rd Respondent is that only after producing the completion certificate issued by the Chennai Metropolitan Development Authority [CMDA] for multistorey buildings, as in the case of 5th Respondent's building, water and sewer connection will be effected. Since the application for water and sewer connection were found to be in order, the Competent Authority had approved the said application to effect water and sewerage connections.

5. The Learned Counsel for the 4th Respondent submits that the Electricity Board had provided service connection to the application dated 11.01.2018 for the Stilt + 11 Floor in residential premises at Old No.27/4, T.S.No.72/3, Old No.97, New No.22, Dr.Ambedkar Road, 4th Avenue, Ashok Nagar, Chennai - 600 083 along with necessary documents and Completion Certificate, which was issued by the 2nd Respondent in Letter No.EC/C-II/4620/2017, dated 15.12.2017. After receipt of the same, the Assistant (O&M) / East / TNEB, Ashok Nagar, Chennai - 78 had inspected the premises on 12.01.2018 and registered the service connection application on 17.01.2018. The necessary approval for work order was sent to the Chief Engineer on 23.01.2018, as per the Tamil Nadu Electricity Distribution Code 2003.

6. Conversely, it is the submission of the Learned Counsel for the 2nd Respondent / Chennai Metropolitan Development Authority [CMDA] that Authorities of the 2nd Respondent / CMDA had inspected the subject property on 19.05.2016 and found that there is no 12th floor put up by the 5th Respondent [as additional floor], as averred by the Petitioner, which was duly intimated to the Petitioner in writing on 03.06.2016, as such, the existence of 12 Floors in the subject property, as put forward by the Petitioner, is an incorrect and false one.

7. Furthermore, the application for Completion Certificate was received from the 5th Respondent / Kgeyes Residency Pvt., Ltd., Chennai, examined and after making inspection, it came to light that the constructed Basement floor part [used for switch gear room & Generator room] +Stilt floor +11 Floors - Residential cum office (Part of 1st to 4th Floor Office use) with 54 dwelling units satisfies the Completion Certificate Norms, as per the Office Order No.1 / 2010 dated 21.01.2010. Therefore, the Completion Certificate was issued in EC/Central-II/316/2017

in Letter No.EC/C-II/4620/2017 dated 15.12.2017.

8. In view of the categorical stand taken by the 2nd Respondent / Chennai Metropolitan Development Authority, that there was no additional floor put up by the Developer / Owner, as per inspection made on 19.05.2016, which was intimated to the Petitioner on 03.06.2016 and later, as per norms, Completion Certificate was issued by the 2nd Respondent in its letter dated 15.12.2017, this Court comes to an irresistible conclusion that no action can be initiated against the 5th Respondent pursuant to the representation of the Petitioner dated 04.04.2016. Looking at from any angle, the Writ Petition is devoid of merits and resultantly it fails.

In fine, the Writ Petition is dismissed leaving the parties to bear their own costs.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

ssd

To

1. The District Collector,
O/o Chennai District, Chennai
2. The Member Secretary,
Chennai Metropolitan Development Authority,
'Thalamuthu Natarajan Building',
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008
3. The Managing Director,
Chennai Metropolitan Water Supply and
Sewerage Board, Chindatripet,
Chennai - 600 002
4. The Chairman,
Tamilnadu Electricity Board,
Anna Salai, Chennai - 600 002

5. Kgeyes Residency Private Ltd.,
rep. By its Managing Director,
Srushdissthal, New No.10, 2nd Cross Street,
Raja Annamalaipuram, Chennai - 28

+1cc to Mr.Rameh, Advocate SR.No.3890

+1cc to Mr.Karthik Rajan, Advocate SR.No.4241

+1cc to Mr.S.K.Rameshuwar, Advocate SR.No.3875

W.P.No.33698 of 2017

MG(CO)
GMY(19/02/2019)



WEB COPY