

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2019

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.32288 of 2018 and

W.M.P.Nos.37526, 37529, 37531 & 39749 of 2018

Mrs.Chellammal

.. Petitioner

V.

1 The Commissioner
Chennai Corporation Rippon Buildings
Chennai - 600 003

2 The Assistant Executive Engineer
Unit- VIII, Zone -3
Chennai Corporation
Madhavaram
Chennai-600 060

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying for issue of Writ of Certiorarified Mandamus calling for the
records of the respondents vide notice under Section 56(2) (iii) and
2A of the Tamil Nadu Town and Country Planning Act 1971 and quash

the same as illegal and null and void besides without jurisdiction, ultra vires and consequently to forbear the respondents 1 and 2 their men agents and servants or any one acting on their behalf from in any manner interfering with nor disturb the petitioner's shop portions situate at Plot No.227, GNT Road, Moolakadi, Chennai-600 060.

For Petitioner : Mr.T.S.Rajamohan

For Respondents : Mr.V.C.Senvasakaran
Standing Counsel - for Chennai Corporation

ORDER

(Order of the Court made by M.DURAI SWAMY,J.)

The petitioner has filed the above Writ Petition to issue a Writ of Certiorarified Mandamus to call for the records of the respondents in respect of the notice under Section 56(2) (iii) and 2A of the Tamil Nadu Town and Country Planning Act 1971, to quash the same and consequently forbear the respondents 1 and 2 from in any manner interfering with the petitioner's shop portions situate at Plot No.227, GNT Road, Moolakadi, Chennai-600 060.

2. It is the case of the petitioner that the 2nd respondent issued a notice under Sections 56 and 57 read with Section 85 of the Tamil

Nadu Town and Country Planning Act 1971, to stop work, since the petitioner was carrying out unauthorized construction. Earlier, the respondents issued notice dated 16.03.2017 calling upon the petitioner to vacate the premises to facilitate lock and seal and demolition. Challenging the notice dated 16.03.2017, the petitioner has filed a Writ Petition in W.P.No.8161 of 2017 and this Court, by order dated 06.05.2017, disposed of the Writ Petition by directing the parties to treat the notice dated 16.03.2017 as a show cause notice and directed the petitioner to give a written reply to the 2nd respondent with supporting documents and also directed the 2nd respondent to pass a suitable orders and communicate the same to the petitioner.

3. The 2nd respondent filed additional counter affidavit dated 03.01.2019 wherein he has stated that pursuant to the order passed in W.P.No.8161 of 2017, a personal hearing was given to the petitioner on 24.09.2018 and after scrutinizing the records, orders were passed and the same was communicated to the petitioner by letter dated 12.10.2018 and the same was received by the petitioner's son Mr.Sasimaran on 17.10.2018.

4. The learned counsel for the respondents also filed a typed set of papers wherein the order dated 12.10.2018 has been enclosed and on a perusal of the same, it is clear that the petitioner's son had received the copy of the same.

5. In these circumstances, we are of the considered view that the petitioner is not entitled to the relief sought for in the Writ Petition. However, it is open to the petitioner to challenge the order dated 12.10.2018 passed by the 2nd respondent, in accordance with law.

6. With these observations, the Writ Petition is dismissed. No costs. Consequently, W.M.P.Nos.37526, 37529, 37531 of 2018 are closed. Since the Writ Petition has been dismissed W.M.P.No. 39749 of 2018, stands closed.

सत्यमेव जयते

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(V.K.T., CJ.) (M.D., J.)
09.01.2019

Index : Yes/No

Speaking Order/Non Speaking Order

Rj

To

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Chennai Corporation Rippon Buildings
Chennai - 600 003
- 2 The Assistant Executive Engineer
Unit- VIII, Zone -3
Chennai Corporation
Madhavaram, Chennai-600 060

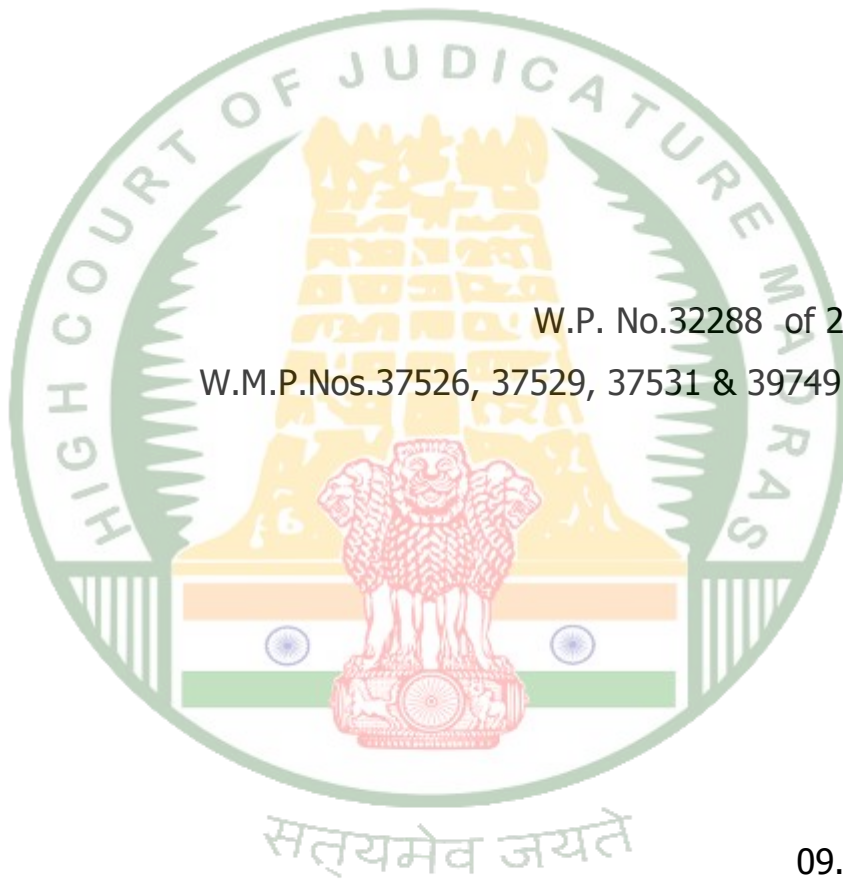


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THE HON'BLE CHIEF JUSTICE

AND
M. DURAISWAMY,J.

Rj



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