

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2019

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAIWAMY

W.P. Nos.33071 of 2018 and 1285 of 2019 and
W.M.P.Nos.38342 and 38344 of 2018
in W.P.No.33071 of 2018 and
W.M.P.Nos.1441 and 3521 of 2019
in W.P.No.1285 of 2019

L.G.Ravi

... Petitioner in W.P.No.33071/2018

Usha Margabhandhu

... Petitioner in W.P.No.1285/2019

vs.

- 1 The Commissioner
Corporation of Chennai
Rippon Building
Chennai - 600003
- 2 The Zonal Officer
Zone - VII, Ambattur
Greater Chennai Corporation
Chennai - 600053
- 3 Sidharth Foundations and Housing Ltd.
No. 169 Habibullah Road T. Nagar
Chennai - 600017

... Respondents in W.P.No.33071/2018

- 1 The Enforcement Director
Enforcement Cell
Chennai Metropolitan Development Authority
No. 1, Gandhi Irwin Road
Egmore, Chennai - 600008
- 2 The Commissioner
Greater Chennai Corporation
Amma Maligai, Ribbon Buildings
Chennai - 600003

- 3 The Zonal Executive Engineer
Zonal Office, Zone - VII
No. 536, Thiruvallur Highway Road
Ambattur Chennai - 600053
- 4 The Area Engineer
Zonal Office, Zone - VII
No. 536, Thiruvallur Highway Road
Ambattur Chennai - 600053
- 5 The Assistant Executive Engineer
Zonal Office Zone - VII
No. 536, Thiruvallur Highway Road
Ambattur Chennai - 600053
- 6 The Assistant Engineer
Zonal Office Zone - VII
No. 536, Thiruvallur Highway Road
Ambattur Chennai - 600053
- 7 The Additional Chief Secretary/ Managing Director
Chennai Metropolitan Water Supply and Sewerage Board
No. 1, Pumping Station Road
Chidateripet, Chennai - 600 037
- 8 The Executive Director
Chennai Metropolitan Water Supply and Sewerage Board
No. 1, Pumping Station Road
Chidateripet, Chennai - 600 037
- 9 The Superintending Engineer
Project Area-VII
Chennai Metropolitan Water Supply and Sewerage Board
No. 1, Pumping Station Road
Chidateripet Chennai - 600 037
- 10 Siddarth Foundations and Housing Limited
No. 169, Habibullah Road
Parthasarathi Puram T.Nagar
Chennai - 600017

... Respondents in W.P.No.1285/2019

W.P.No.33071/2018 : Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus, directing the 1st respondent to consider the representation dated 11.08.2018 given by the petitioner with regard to gross violation of the planning permission at "SIDHARTH PEARL", Dinesh Street, Mogappair, Chennai - 600037 and to initiate action against the respondent 3 under the Corporation Control rules or according to appropriate laws available.

W.P.No.1285/2019 : Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus, directing the respondents 1 to 6 take action based on the representations made on 29.10.2018 and 25.11.2018 in respect of the unauthorized construction made by the 10th respondent at No. 7-499, Block No. 11, J.J.Nagar, Mogappair, Chennai - 600037, in plots at No. 1-10 in Old Survey No. 260 Part, T.S.No. 22/1, Block No. 37, Thilak Street, Mogappair Village, Panneer Nagar Part- II, Mogappair East, Chennai - 600037, Division No. 92 and direct the respondents 7 to 9 to take action based on the representation made on 29.10.2018 regarding the violation of the drainage system in Tilak Street.

For Petitioners : Mr.J.Chandran Sundar Sashikumar
(in W.P.No.33071/2018)
Mr.R.Natarajan (in W.P.No.1285/2019)

For Respondents :Mr.V.C.Selvasekaran - for R1 and R2
(in W.P.No.33071/2018)
Mr.Silambanan, Senior Counsel - for R3
for M/s.Thomas J. Jacob

For Respondents :Mr.S.Thiruvengadam - for R1
(in W.P.No.1285/2019)
Mr.V.C.Selvasekaran - for R2 to R6
Mr.Janakiraman 0 for R7 to R9
Mr.Silambanan, Senior Counsel - for R10
for M/s.Thomas J. Jacob

O R D E R

(Order of the Court made by The Hon'ble Chief Justice
and M.DURAI SWAMY, J.)

Since the issue involved in both the Writ Petitions are common, the Writ Petitions are disposed of by this common order.

2. W.P.No.33071 of 2018 has been filed by the petitioner, viz., L.G.Ravi to issue a Writ of Mandamus, directing the 1st respondent to consider the representation dated 11.08.2018 given by the petitioner with regard to gross violation of the planning permission at "SIDHARTH PEARL", Dinesh Street, Mogappair, Chennai and to initiate action against the respondent No.3, viz., Sidharth Foundations and Housing Limited under the Corporation Control Rules or according to appropriate laws available.

3. W.P.No.1285 of 2019 has been filed by the petitioner, viz., Usha Margabhandhu, to issue a Writ of Mandamus, directing the respondent Nos. 1 to 6 take action based on the representations dated 29.10.2018 and 25.11.2018 in respect of the unauthorized construction made by the respondent No.10, viz., Sidharth Foundations and Housing Limited at No. 7-499, Block No. 11, J.J.Nagar, Mogappair, Chennai - 600037, in plots at No. 1-10 in Old Survey No. 260 Part, T.S.No. 22/1, Block No. 37, Thilak Street, Mogappair Village, Panneer Nagar Part- II, Mogappair East, Chennai, Division No. 92 and direct the respondent Nos. 7 to 9 to take action based on the representation made on 29.10.2018 regarding the violation of the drainage system in Tilak Street.

4. The petitioner in W.P.No.33071 of 2018 is one who intended to purchase a flat in the apartment constructed by the respondent No.3/M/s.Sidharth Foundations and Housing Limited. The petitioner in W.P.No.1285 of 2019 is residing next to the apartment constructed by M/s. Sidharth Foundations and Housing Limited.

5. According to the petitioners, the builder, viz., M/s.Sidharth Foundations and Housing Limited, has violated the planning permission and constructed the apartment at "SIDHARTH PEARL".

6. The respondent No.2/The Zonal Officer, Greater Chennai Corporation filed a counter, wherein, he has stated that the building was inspected by the Assistant Executive Engineer and at the time of inspection it was found that the builder was putting up construction consisting of 10 flats with 4 nos. of dwelling units and nearly 70% of the construction work has been completed by them. Immediately after inspecting the site in question, the respondent No.2 issued a notice under Sections 56 and 57 read with Sections 56 and 57 read with Section 85 of the Tamil Nadu town and Country Planning Act, 1971, to Stop Work and also called upon the builder to produce the approved plan on 31.08.2017. The builder produced the approved plan and on scrutinizing the same, it was found that the builder has put up the building by deviating the approved plan. Thereafter, on 12.09.2018 the Corporation issued Locking & Sealing and Demolition Notice under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971.

7. The learned Senior Counsel appearing for the builder, viz., M/s, Sidharth Foundations and Housing Limited, submitted that as against the Locking & Sealing and Demolition Notice, the builder has preferred an appeal before the Housing

and Urban Development Corporation Department.

8. Since the respondent Corporation has already initiated action against the builder for violation of the building permission and an appeal is also pending before the appellate authority, no further directions are required in the Writ Petitions. However, the Appellate Authority, viz., Tamil Nadu Housing and Urban Development Department shall dispose of the stay petition filed in the appeal filed by the builder within a period of two weeks from the date of receipt of a copy of this order and the appeal, within a period of ten weeks thereafter.

With these observations, the Writ Petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Rj

To

- 1 The Commissioner
Corporation of Chennai
Rippon Building
Chennai - 600003
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Zone - VII, Ambattur
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Project Area-VII
Chennai Metropolitan Water Supply and Sewerage Board
No. 1, Pumping Station Road
Chidateripet Chennai - 600 037
11. The Secretary, Tamil Nadu Housing and
Urban Development Department Secretariat,
Chennai-9

+2cc to Mr.Thomas T.Jacob, Advocate, S.R.No.10482 & 10483
+2cc to Mr.S.Thiruvengadam, Advocate, S.R.No.10416 &10415

W.P. Nos.33071 of 2018 and 1285 of 2019 and
W.M.P.Nos.38342 and 38344 of 2018
in W.P.No.33071 of 2018 and
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