

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MRS.JUSTICE R.HEMALATHA

W.P.Nos.7880 & 9014 of 2020
and
W.P.M.P.No.9302 of 2020

W.P.No.7880 of 2020

Santhanam

... Petitioner

-Vs-

1. The Commissioner,
Greater Chennai Corporation,
Rippon Buildings, Chennai - 600 003.
2. The Executive Engineer,
Greater Chennai Corporation,
Zone - 6, Ayanavaram, Chennai - 600023.

3.S.Vasanthakumar
4.Satish

... Respondents

W.P.No.9014 of 2020

Sri Hari Krishna Bajanai Maddam,
Its Rep by the Treasurer,
M.Sathishkumar,
No.87/35, Samy Bakthan Street,
Ayanavaram, Chennai - 600 012.

.. Petitioner

-Vs-

1. The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai District.
2. The Zonal Officer,
Zone-6,
Chennai Corporation,
No.5, Anderson Salai,
Ayanavaram, Chennai - 600 023.

3. The Executive Engineer (EE),
Zone VI, Chennai Corporation,
No.5, Anderson Salai,
Aynavaram, Chennai - 600 023.
4. The Assistant Executive Engineer (AE2)
Zone VI, Chennai Corporation,
No.5, Anderson Salai,
Aynavaram, Chennai - 600 023.
5. The Assistant Engineer (AE),
Zone VI, Division - 74,
Chennai Corporation, No.5, Anderson Salai,
Aynavaram, Chennai - 600 023.
6. R.Santhanam .. Respondents

Prayer in W.P.No.7880 of 2020

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the Second Respondent relating to the order bearing letter No. 06/ 00043 / 2020 dated 01.02.2020 and to quash the same and consequently, direct the Second Respondent to drop all further proceedings as mentioned in the letter No. 06 / 00043 / 2020 dated 01.02.2020.

Prayer in W.P.No.9014 of 2020

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to consider my representation dated 14.08.2019 and directing the respondents to demolish the construction recovery of possession.

W.P.No.7880 of 2020

For Petitioner .. Mr.S.Baskaran

For Respondents .. Mr.Raja Shrinivas for RR1 & 2

W.P.No.9014 of 2020

For Petitioner .. Mr.R.Gopinath

For Respondents .. Mr.Raja Shrinivas for RR1 to 5
Mr.S.Baskaran for R6

COMMON ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner in W.P.No.7880 of 2020 has come forward to file the writ petition challenging the notice issued by the official respondent under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971 and the other writ petition in W.P.No.9014 of 2020 has been filed by the petitioner seeking appropriate action against the petitioner in W.P.No.7880 of 2020.

2. Since action has been taken, the writ petition in W.P.No.9014 of 2020 has become infructuous and the same is liable to be dismissed.

3. The learned counsel appearing for the petitioner in W.P.No.7880 of 2020 submitted that what has been put up is only a temporary structure. The earlier permanent structure was demolished. He has further submitted that though an application made, the Corporation has not received the same.

4. The learned counsel appearing for the Corporation submitted that what has been put up is asbestos sheet overhead the permanent structure. What has been done is by exercise of the power conferred under Section 56, 57 and 85 of The Tamil Nadu Town and Country Planning Act, 1971. Inasmuch as no planning permission has been obtained, the writ petition in W.P.No.7880 of 2020 will have to be dismissed.

5. We do not find any merit in this writ petition. The question as to whether the structure as it stands as of now is permanent, semi permanent or temporary is a question of fact which we cannot go into. Therefore, the only option open to the petitioner is to exhaust the alternative remedy before the State Government or to file an application before the respondent corporation seeking planning permission. Therefore, looking from any perspective, we do not want to interfere with the order impugned in this writ petition. Therefore, this writ petition is liable to be closed giving liberty to the petitioner as indicated above. The petitioner is given four weeks time from the date of receipt of a copy of this order to undertake the above said exercise.

In the result,

(i) W.P.No.9014 of 2020: This writ petition stands dismissed as infructuous. No costs.

(ii) W.P.No.7880 of 2020: This writ petition stands

closed, however, with the directions as indicated above. No costs. Consequently, connected WMP is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner,
Greater Chennai Corporation,
Rippon Buildings, Chennai - 600 003.
2. The Executive Engineer,
Greater Chennai Corporation,
Zone - 6, Ayanavaram, Chennai - 600 023.
3. The Zonal Officer,
Zone-6, Chennai Corporation,
No.5, Anderson Salai,
Ayanavaram, Chennai - 600 023.
4. The Executive Engineer (EE),
Zone VI, Chennai Corporation,
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6. The Assistant Engineer (AE),
Zone VI, Division - 74,
Chennai Corporation, No.5, Anderson Salai,
Ayanavaram, Chennai - 600 023.

+1cc to Mr.K.Rajashrinivas, Advocate, Sr.No.27169
+1cc to Mr.R.Gopinath, Advocate, Sr.No.27193

W.P.Nos.7880 & 9014 of 2020

rv (co)
rr ii (16/09/2020)