

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.Nos.7939, 7941 and 7944 of 2020
and WMP Nos.9380, 9376, 9378 of 2020

W.P.No.7939 of 2020

Chandra Singh ... petitioner

vs.

1. The Commissioner
Greater Chennai Corporation
Rippon Buildings,
Chennai 9

2. The Zonal Officer,
zone 5
Greater Chennai Corporation
Rippon Buildings,
Chennai 9

3.The Secretary to Government,
Municipal Administration and
Water Supply and Sewerage Dept,
Fort St.George,Chennai 9

4.Rajendra Singh
5.Assst. Executive Engineer,
Division Unit 13,
Greater Chennai Corporation
Chennai 9

... respondents

Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents 1 to 3 and 5 or their men or agents, servants, attorneys, representatives or any other persons from in any manner interfering in the peaceful possession and enjoyment of the petitioner's property at D.No.126, New No.253, Govindappa Naicken Street, George Town, Chennai 1.

W.P.No.7941 of 2020

S.Dinesh Kumar

... petitioner

vs.

1. The Commissioner
Greater Chennai Corporation
Rippon Buildings,
Chennai 9

2. The Zonal Officer,
Zone 5
Greater Chennai Corporation
Rippon Buildings,
Chennai 9

3.The Secretary to Government,
Municipal Administration and
Water Supply and Sewerage Dept,
Fort St.George, Chennai 9

4.Rajendra Singh

5.Assst. Executive Engineer,
Division Unit 13,
Greater Chennai Corporation
Chennai 9

... respondents

Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents 1 to 3 and 5 or their men or agents, servants, attorneys, representatives or any other persons from in any manner interfering in the peaceful possession and enjoyment of the petitioner's property at D.No.126, New No.253, Govindappa Naicken Street, George Town, Chennai 1.

W.P.No.7944 of 2020

Sanjay Kumar

... petitioner

vs.

1. The Commissioner
Greater Chennai Corporation
Rippon Buildings,
Chennai 9

2. The Zonal Officer,
Zone 5, Greater Chennai Corporation
Rippon Buildings,
Chennai 9

3.The Secretary to Government,
Municipal Administration and
Water Supply and Sewerage Dept,
Fort St.George,Chennai 9

4.Rajendra Singh

5.Assst. Executive Engineer,
Division Unit 13,
Greater Chennai Corporation
Chennai 9

... respondents

Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents 1 to 3 and 5 or their men or agents, servants, attorneys, representatives or any other persons from in any manner interfering in the peaceful possession and enjoyment of the petitioner's property at D.No.126, New No.253, Govindappa Naicken Street, George Town, Chennai 1.

For Petitioner : Ms.V.Bagyalakshmi
Ms.R.Sonia Glory

For 3rd respondent : Mr.Jayaprakash Narayanan,
Government Pleader

For respondents 1,2 5: Mr.R.Gopinath, Standing Counsel
for Chennai Corporation

ORDER

(Made by DR.VINEET KOTHARI, J.)

The Court was held by Video Conference, as per the Resolution of the Full Court dated 30th April 2020, by Judges at the respective residence offices and the counsel, staff of the Court appearing from their respective residences.

2. The three tenants in the property situated at D.No.126, New No.253, Govindappa Naicken Street, George Town, Chennai 1 have approached this court, seeking extension of time granted by the learned Additional Secretary (Technical), Housing and Urban Development Department, Secretariat, vide Letter No.21813/UD-VI(2)/2018-2, dated 05.02.2020. The owner of the property is one Mr.Rajendra Singh, the fourth respondent herein. The property in question appears to have been constructed by the fourth respondent with some deviations, contrary to the approved plan. The deviations have been mentioned in the said letter of the Additional Secretary. The deviation in the ground floor is put up at 25.49 sq.m; in the first floor at 42.55 sq.m; and deviation in the second floor is found to be 110.79 sq.m. The third and fourth floors are found to be unauthorized constructions. The lock and seal demolition orders were issued by the Municipal Corporation way

back on 5.5.2014 and thereafter, only series of litigations and writ petitions have happened in this Court and from time to time, some orders were passed for giving an opportunity of hearing to the owner as well as the tenants of the property in question so that the deviations could be rectified and the unauthorized construction could be demolished. The owner and tenants of the property in question were accordingly heard by the Additional Secretary while passing the impugned order on 5.2.2020. The learned Additional Secretary has granted three months time to the owner of the premises to carry out the rectification of the constructed property in question and to remove the defects and restore the building in question in accordance with the approved plan.

3. The learned Counsel, Mrs. Bagyalakshmi, submitted that during the last three months on account of Covid-19 situation, the business of the petitioner/tenants who are running the electrical shops on the ground floor has suffered badly due to lock down and since the employees of the Chennai Corporation are busy in the management of Covid situation, they have not taken any action so far in pursuance of the impugned order dated 5.2.2020, by which, a period of three months was fixed for the owner for carrying out rectification of the building in question and therefore, since now the action of demolition, repair, etc. is liable to be taken, the interest of the tenants may be protected for some more period by granting further extension of period. The said period of three months has actually expired on 5 May 2020.

4. While hearing the present case through video conference on 9.6.2020, by today, so far no action appears to have been taken and the learned Government Pleader and learned counsel appearing for Chennai Corporation have also appeared before us in this video conference, have not controverted this factual position.

5. After hearing the learned counsel for the parties at some length, we are inclined to dispose of the writ petitions with a limited direction to the petitioners, viz., tenants of the property in question, as well as the owner of the property, to approach the same authority viz., Additional Secretary (Technical), who passed the impugned order dated 5.2.2020 for seeking extension of some reasonable time for initiating action, in pursuance of the said order. This is taking into account the fact that due to Covid situation, due to the lock down announced by the Central Government as well as the State Government after 25.03.2020, which are now relaxed only from 1.6.2020, the business of various persons, including these petitioners might have suffered and therefore, we are inclined to give some indulgence in the matter and therefore, we direct that the petitioners/tenants as well as the owner of the property Mr. Rajendra Singh, the fourth

respondent herein, may appear before the concerned Additional Secretary, with their representation for grant of some reasonable time, within a period of four weeks from today. We fix the date for the parties to appear before the Additional Secretary on 18 June 2020 at 11 a.m. and the said Additional Secretary is directed to provide an opportunity of hearing to them and pass appropriate orders within a period of four weeks of the said date viz., 18 June 2020. No further extension of time shall be granted under any circumstances. Till the said Additional Secretary passes appropriate orders in the matter, after hearing all the parties concerned viz., the tenants and the owner of the property, the status quo as on the present date shall be maintained.

6. We make it clear that the said interim protection will not be extended further under any circumstances beyond 18 July 2020. The parties shall appear before the Additional Secretary on 18 June 2020 and appropriate order shall be passed by the said Authority before 18 July 2020 and the further status regarding rectification of the property shall abide by the orders to be passed by the Additional Secretary, as aforesaid.

7. We dispose of the writ petitions with the aforesaid directions. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner
Greater Chennai Corporation
Rippon Buildings,
Chennai 9

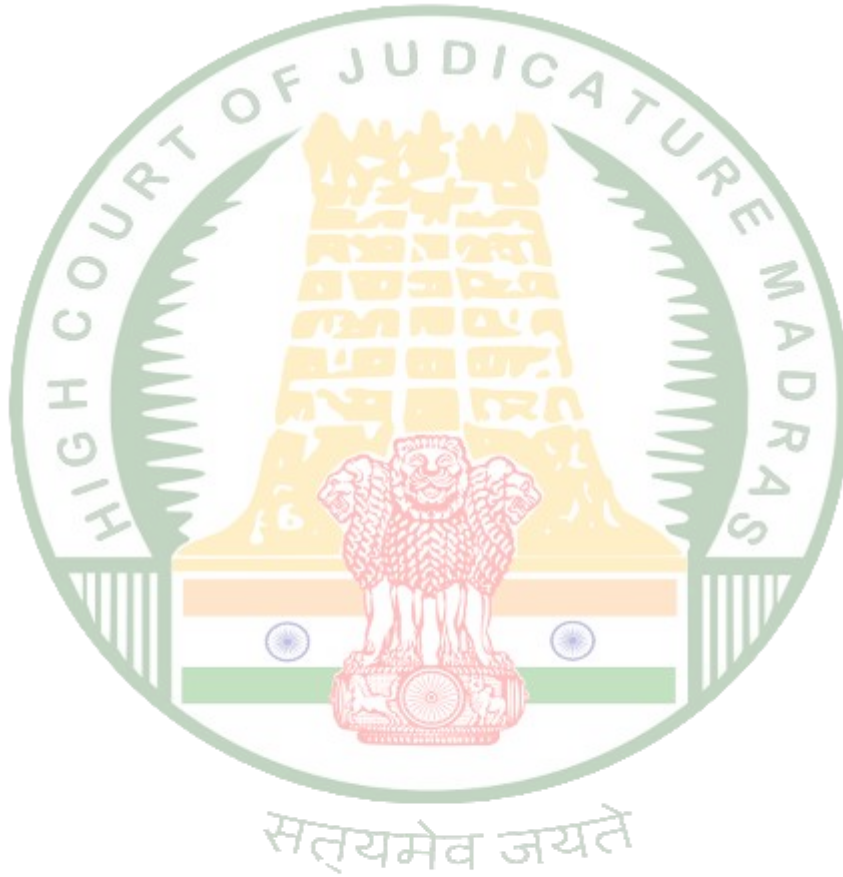
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Chennai 9

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W.P.No.7939 OF 2020



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