

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.11.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
AND
THE HONOURABLE MRS. JUSTICE R. HEMALATHA

WP.No.16046 of 2020
and W.M.P.No.19978 of 2020

Mr.B.S.Shankar ..Petitioner

Versus

1. The Commissioner,
Corporation of Greater Chennai,
Rippon Buildings,
Park Town, Chennai 600 003.
2. The City Engineer (Works)
Corporation of Greater Chennai,
Rippon Buildings, Park Town,
Chennai 600 003.
3. The Executive Engineer,
Zone-V, Corporation of Greater Chennai,
9, Chidambaram 7th Street,
Basin Bridge, Chidambaram Nagar,
Chennai 600 001.
4. B.T.Shamundeswaran

Prayer:- Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus directing the respondents 1 to 3 at to stop the illegal and unauthorised construction being put up by the respondents 4 and 5 to stop the illegal construction at No.1, Old Door No.117, Abdul Hussain Sahib Street, Pudupet, Chennai 2.

For Petitioner : Mr.B.Hari Krishnan
For RR 1 to 3 : Mr.M.Ganesan
Standing Counsel

ORDER

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

By consent, the writ petition is taken up for final disposal and is disposed of by this order.

2.Mr.M.Ganesan, learned Standing counsel accepts notice on behalf of respondents 1 to 3.

3.The petitioner is the son of Mr.B.S.Sadasivam, who is one of the plaintiffs in O.S.No.4313 of 2010 on the file of the XIII Assistant City Civil Court, at Chennai. Father of the petitioner along with his brother viz., Mr.B.S.Kanniah, has filed the said Suit against his brother Mr.B.S.Teekaram / father of the respondents 4 and 5 for partition and separate possession and a preliminary decree came to be passed vide judgment and decree dated 28.02.2011, holding that the plaintiffs are entitled to 2/3rd share.

4.The learned counsel appearing for the petitioner would submit that one of the items of the property is situate at Door No.1, Old Door No.117, Abdul Hussain Sahib Street, Pudupet, Chennai-2 and in the light of

the compromise, the properties were divided among three brothers and there are in possession and enjoyment of the respective shares. It is the further submission of the learned counsel appearing for the petitioner that respondents 4 and 5, who are the sons of Mr.B.S.Teekaram, had encroached upon the entire extent of land, on which the above superstructure stands and started putting up wholly unauthorised construction and the petitioner on becoming aware of the same, had submitted a representation dated 10.09.2020, followed by reminder dated 21.09.2020 and that apart, a legal notice dated 09.10.2020 had also been submitted to the concerned officials of Corporation of Chennai and in spite of receipt and acknowledgment, no response is forthcoming and taking advantage of the same, the respondents 4 and 5 are urgently proceeded with the unauthorised construction and they are likely to complete it soon. Attention of this Court has also been invited to the photographs available at page no.15 of the typed set of documents.

5. Mr.M.Ganesan, learned standing counsel for Chennai Corporation who accepts notice on behalf of the respondents 1 to 3, on instructions, would submit that on receipt of the representation dated 10.09.2020, inspection of the on-going construction was caused on 12.09.2020 and immediately, notice was issued to the private respondents, calling upon them to furnish the planning permission and so far, they did not submit the same. Hence further action would be followed for locking, sealing and de-occupation of the premises and seeks time to file a Status Report in this regard.

6.This Court has carefully considered the rival submissions and also perused the materials placed before it.

7.In the light of the fact that the respondents 1 to 3 had initiated action by issuing notice to respondents 4 and 5, calling for planning permission and since there was no response, further proceedings are taking place. The grievance expressed by the petitioner appears to have been addressed partially.

However, the 3rd respondent is directed to send his reply as to the further action taken against the respondents 4 and 5 to the petitioner, within a period of two weeks from the date of receipt of a copy of this order and shall also proceed further in respect of the alleged unauthorised construction being put up by the respondents 4 and 5 by following due process of law and also by adhering to the principles of natural justice and complete the said exercise within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as the respondents 4 and 5 and it is also made clear that this Court have not gone into the merits and demerits of the allegations made by the petitioner as well as defence to be taken by the respondents 4 and 5 in this regard.

8.The Writ Petition stands disposed of accordingly. No costs. Consequently connected miscellaneous petition is closed.

SD/-
ASSISTANT REGISTRAR

//TRUE COPY//

SUB ASSISTANT REGISTRAR

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To

1. The Commissioner,
Corporation of Greater Chennai,
Rippon Buildings,
Park Town,
Chennai 600 003.

WEB COPY

2. The City Engineer (Works)
Corporation of Greater Chennai,
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3. The Executive Engineer,
Zone-V, Corporation of Greater Chennai,
9, Chidambaram 7th Street,
Basin Bridge,
Chidambaram Nagar,
Chennai 600 001.

+1cc to Mr.M.Ganesan, Advocate, SR36917

+1cc to Mr.B.Hari Krishnan, Advocate, SR36773

W.P.No.16046 of 2020

CO (SRA)
BDL/21/12/2020



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