

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2020

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH
and
THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

W.P. No. 26081 of 2019

B.Gobi ... Petitioner

versus

- 1.Chennai Metropolitan Development Authority [CMDA],
Rep. by the Member Secretary,
Thalamuthu Natarajan Maaligai,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
- 2.Chennai Metropolitan Water Supply and
Sewerage Board [CMWSSB],
Rep. by the Chairman,
No.1, Pumping Station Road,
Chintadripet, Chennai - 600 002.
- 3.The Commissioner,
Greater Chennai Corporation,
Ripon Buildings, E.V.R.Road,
Chennai - 600 003.
- 4.The Deputy Commissioner,
Central Regional Office,
Greater Chennai Corporation,
New No.36B, Old No.12B,
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.
- 5.The Executive Engineer-I,
Greater Chennai Corporation,
Zone-10, No.117, N.S.K.Salai,
Kodambakkam, Chennai - 600 024.
- 6.Bhimaas Corporate Residency,
Rep. by its Proprietor,
Old Building Nos.5, 6 & 7,
New Building Nos.17,19 & 21,
South Perumal Kovil Street,
Vadapalani, Chennai - 600 026. ...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents 1 to 5 to take appropriate and immediate action against the 6th respondent by considering the petitioner's representation dated 22.12.2016.

For Petitioner : Mr.B.Siddeswaran
For Respondent No.1 : Mrs.P.Veena Suresh
For Respondent No.2 : Mr.C.Vigneswaran
For Respondent Nos.3to5 : Dr.C.Ravichandran
For Respondent No.6 : Mr.S.Bageerthan

O R D E R

[Order of the Court was made by R.SUBBIAH, J.]

The petitioner has come up with the present Writ Petition for a Mandamus, directing the respondents 1 to 5 to take appropriate and immediate action against the sixth respondent by considering his representation dated 22.12.2016.

2. The case of the petitioner is that he is residing at No.144, North Mada Street, Vadapalani, Chennai. The sixth respondent is running a Hotel in the name and style of "Bhimaas Corporate Residency", at Old Nos.5, 6 & 7, New Nos.17,19 & 21, South Perumal Kovil Street, Vadapalani, Chennai. The sixth respondent has constructed the said building without approval. In order to verify whether the building has been constructed with an approval plan or not, the petitioner has filed several applications invoking Section 6(1) of the Right to Information Act, 2005. The petitioner also sent a representation dated 27.12.2016 to the respondents. In response, the first respondent, by a communication dated 08.02.2017, forwarded the representation dated 27.12.2016 of the petitioner to the third respondent to take necessary action on the representation. According to the petitioner, the sixth respondent did not get any approval for the building in deviation of the Building norms. Further, petitioner has stated in the affidavit that he is residing adjacent to the building constructed by the sixth respondent. On 08.05.2017 a major fire broke out in the building put up by the sixth respondent in which four occupants were burnt alive since they could not come out of the building. It is in the above circumstances, complaining that the representation dated 22.12.2016 sent to the respondents 1 to 5 did not evoke any response, the present Writ Petition has been filed.

3. Heard the learned counsel appearing for the petitioner and the learned counsels appearing for respondents.

4. Today, when the petition is taken up for consideration, the learned counsel appearing for the fifth respondent/Corporation has submitted that already action has been initiated by the fifth respondent. The learned counsel also referred to the counter affidavit filed by the fifth respondent on 06.01.2020 before this Court, which reads as follows:-

"4. I respectfully submit that on receipt of the notice in the above Writ Petition the building at Old No.5, 6 & 7, New No.17, 19 & 21, South Perumal Koil Street, Vadapalani, Chennai - 600 026 is inspected by the Assistant Executive Engineer, Unit-29, Zone-X and the Assistant Engineer, Division-130, Unit-29, Zone-X, Greater Chennai Corporation on 16.11.2019. I further submit that, immediately after inspection action has been initiated by issuing a Stop Work Notice / Notice calling for Approved Plan dated 16.11.2019 under Section 56 and 57 read with Section 85 of Tamil Nadu Town and Country Planning Act, 1971 to the 6th respondent herein.

5. I respectfully submit that since the 6th respondent herein have failed to comply with the above notice the entire building has been treated as unauthorized one and action has been taken by issuing a Lock and Seal and Demolition Notice dated 28.12.2019 under Section 56 and 57 read with Section 85 of Tamil Nadu Town and Country Planning Act, 1971 to the 6th respondent herein and same has been acknowledged by the office of the 6th respondent on 04.01.2020.

6. I respectfully submit that further action against the 6th respondent building will be taken after expiry of the statutory period of the above notice as per the provisions of Tamil Nadu Town and Country Planning Act, 1971."

5. It is evident from the counter affidavit of the fifth respondent that already action has been initiated by the fifth respondent/ Corporation by issuing a lock and seal and demolition notice dated 28.12.2019 under Section 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act to the sixth respondent and it was also acknowledged on 04.01.2020. It is also stated in the counter affidavit that further action will be resorted to as per the Rules. In such circumstances, the fifth respondent is directed to consider the representation of the petitioner dated 22.12.2016, afford an opportunity of hearing to the petitioner as well as the sixth respondent, to enable them to put forth their contentions, including production of documentary evidence. Thereafter, the fifth respondent is directed to inspect the premises in question and then pass appropriate orders, on merits and in accordance with law. The entire exercise shall be completed by the fifth respondent within a period of eight weeks from the date of receipt of a copy of this order.

6. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

sri/rsh
To

- 1.The Member Secretary,
Chennai Metropolitan Development Authority [CMDA],
Thalamuthu Natarajan Maaligai,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
- 2.The Chairman,
Chennai Metropolitan Water Supply and
Sewerage Board [CMWSSB],
No.1, Pumping Station Road,
Chintadripet, Chennai - 600 002.
- 3.The Commissioner,
Greater Chennai Corporation,
Ripon Buildings,
E.V.R.Road,
Chennai - 600 003.
- 4.The Deputy Commissioner,
Central Regional Office,
Greater Chennai Corporation,
New No.36B, Old No.12B,
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.
- 5.The Executive Engineer-I,
Greater Chennai Corporation,
Zone-10, No.117, N.S.K.Salai,
Kodambakkam,
Chennai - 600 024.

+1cc to Mr.C.Vigneswaran, Advocate SR.No.1408

+1cc to Mr.S.Bageerthan, Advocate SR.No.1290

+1cc to Mr.B.Siddeswaran, Advocate SR.No.1282

+1cc to Mr.C.Ravichandran, Advocate SR.No.723

+1cc to Mrs.P.Veena Suresh, Advocate SR.No.1100