

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2020

CORAM

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

Writ Petition No.32938 of 2019
and WMP.Nos.33363 & 33364 of 2019

1. L.Sanjay Bohra
2. P.L.Sunil Bohra
3. S.Sunitha Bohra
4. S.Manju Kumari

... Petitioners

Vs

1. The Commissioner
Chennai City Municipal Corporation
Ripon Building, Chennai 600 003.
2. The Executive Engineer
Chennai City Municipal Corporation
Zone - VI
No.5, Anderson Road,
Ayanavaram, Chennai 600 023.
3. The Member Secretary,
Chennai Metropolitan Development Authority
Gandhi Irwin Road, Egmore,
Chennai 600 008.
4. The Secretary to Government
Housing and Urban Development Department
Secretariat, Chennai 600 009.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the first and second respondents and their subordinate not to proceed with any coercive action against the petitioners property as specified under

Section 56(4) of the Tamil Nadu Town and Country Planning Act 1971, pending disposal of the Appeal petition preferred by the petitioners on 19.08.2019 which is pending with the fourth respondent.

For Petitioner : Mr.T.Ranganathan

For Respondents: Mr.V.C.Selvasekaran for R1 and R2
Mr.P.S.Ganesh for R3
Mr.K.S.Suresh
Government Advocate for R4

O R D E R

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

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Mandamus directing the first and second respondents and their subordinate not to proceed with any coercive action against the petitioners' property as specified under Section 56(4) of the Tamil Nadu Town and Country Planning Act 1971, pending disposal of the Appeal petition preferred by the petitioners on 19.08.2019 which is pending with the fourth respondent.

2. The averments in the Writ Petition is as follows:-

The petitioners are the absolute owners in respect of the entire premises bearing Door No.262 Perambur, Papermills Road and thereafter the petitioners demolished the old building and constructed a new building. The building was assessed by the Chennai City Municipal Corporation in Assessment No.03543 in Ward No.068 under Zone 6 of Chennai City Municipal Corporation. The Executive Engineer, Chennai City Municipal Corporation Zone 6 has issued a stop work notice No.06/00692/2019 dated 06.05.2019 to stop the ongoing unauthorised construction in the above said premises. The petitioners also submitted a letter dated 17.05.2019 explaining that the construction of the above building has been completed in the year 2002 - 2003 itself, after obtaining building plan and planning permission from the Commissioner, Chennai City Municipal Corporation. However, second floor of the building has been constructed without proper approved plan for which the petitioners have applied for regularisation to the CMDA on 15.05.2019 by remitting a sum of Rs.16,628/-. While so, the second respondent herein, again issued a notice on 10.06.2019. The petitioners have submitted their detailed reply on

26.06.2019. Thereafter, the Executive Engineer Zone 06 once again issued a de-occupation notice under Section 56 subsection 2(A) and Section 57 of the Town and Country Planning Act, 1971 to de-occupy the said premises within 15 days from the date of receipt of the notice. Thereafter petitioners submitted a representation to the Secretary to Government, Housing and Urban Development Department on 05.08.2019 for immediate intervention, since the matter has been referred to CMDA for regularisation and since no order was passed by the Secretary to Government, the petitioners filed W.P.No.24198 of 2019 before this Court and this Court, directed the the petitioners to approach the Government under Section 49 of the Tamil Nadu Town and Country planning Act, 1971. Accordingly the petitioners have filed an appeal before the fourth respondent on 19.08.2019. Now, the petitioners have approached this court seeking a direction to the first and second respondents and their subordinates not to proceed with any coercive action against the petitioners' property as specified under Section 56(4) of Act, pending disposal of the appeal filed by the petitioners on 19.08.2019, which is pending before the fourth respondent.

3. Since the appeal dated 19.08.2019 filed under Section 80(A) and 80(A) (3) of the Act is pending before the fourth respondent, the fourth respondent is directed to consider and pass appropriate orders on the said appeal, within a period of eight weeks from the date of receipt of a copy of this order, after affording an opportunity of personal hearing to the petitioners permitting them to raise all their contentions. Till a decision is taken by the fourth respondent in this regard, the respondents are directed not to take any coercive steps against the petitioners. Till then, there shall be an order of status quo.

4. The Writ Petition is disposed of with the above direction. No costs. Consequently, connected WMP are also closed.

Sd/-

Assistant Registrar(CS IV)

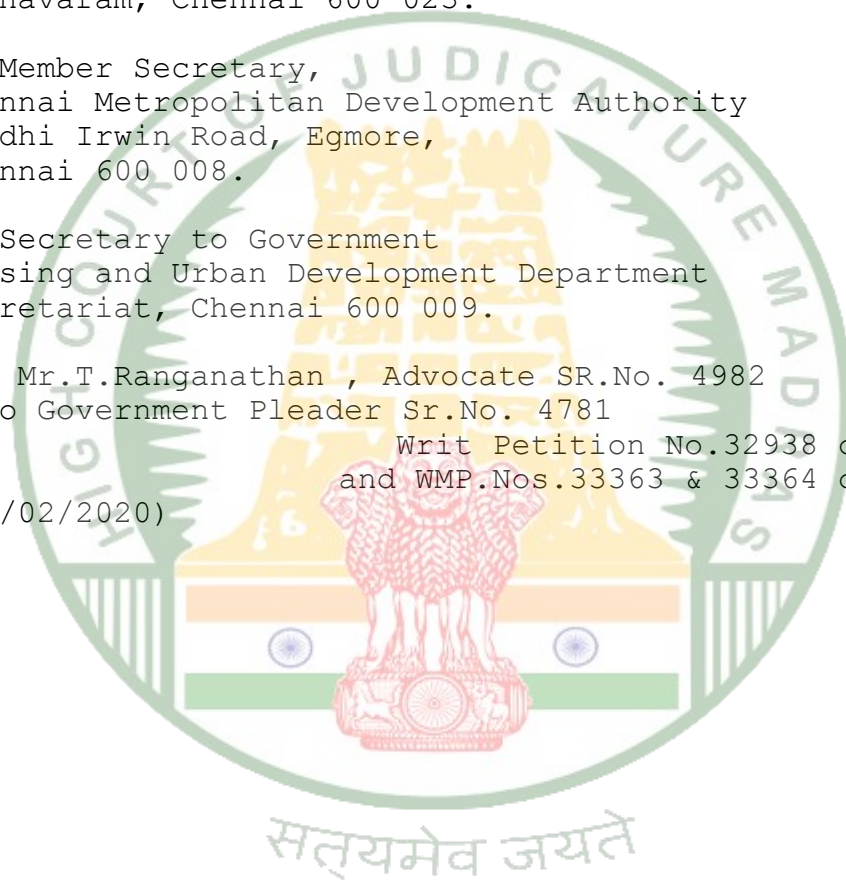
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Sub Assistant Registrar

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To

1. The Commissioner
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 4. The Secretary to Government
Housing and Urban Development Department
Secretariat, Chennai 600 009.
- +1cc to Mr.T.Ranganathan , Advocate SR.No. 4982
+1 cc to Government Pleader Sr.No. 4781
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A.SK(25/02/2020)



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