



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2021

CORAM

THE HONOURABLE MR.JUSTICE R. MAHADEVAN
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

WRIT PETITION NO.27297 OF 2021

S.N.Kesavan

...Petitioner

Versus

1.The Commissioner
Corporation of Chennai
Chennai 600 003

2.The Zonal Officer
Zone-VIII,
Corporation of Chennai
Shenoy Nagar
Chennai 600 030

3.The Executive Engineer
Tamil Nadu Housing Board
Anna Nagar Division
Chennai 600 040

4.Dr.Jothy Parthasarathy

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents 1 to 3 to initiate action for removal of the illegal construction put up by the fourth respondent, on the northern side of the house bearing Old No.C-66, New No.98, First Avenue, TVK Colony, Anna Nagar East, Chennai 600 102 which is meant for free use and occupation of the allottees of the said block and thereby restore the same to its original position on the basis of the representations of the petitioner dated 29.09.2021 and 02.12.2021 within a time frame to be fixed by this court.

For Petitioner : Mr.K.A.Mariappan

For Respondents : Mr. K.Raja Srinivas for R1-R3



ORDER

(Order of the Court was made by R. MAHADEVAN, J.)

The petitioner has filed this writ petition for issuance of a Writ of Mandamus to direct the respondents 1 to 3 to initiate action for removal of the illegal construction put up by the fourth respondent on the northern side of the house bearing Old No.C-66, New No.98, First Avenue, TVK Colony, Anna Nagar East, Chennai 600 102 and thereby restore the same to its original position on the basis of the petitioner's representations dated 29.09.2021 and 02.12.2021, within a time frame to be fixed by this court.

2. According to the petitioner, his father late K. S. Narayanan purchased the land together with a building thereon bearing Old No. C-6, New No. 98, Ground Floor, First Avenue, TVK Colony, Anna Nagar East, Chennai - 600 102 from the Housing Board by way of a sale deed registered as document No. 1704 of 1992, on the file of SRO, Anna Nagar. After the death of his father and subsequently, his mother, the petitioner and his sister have been in possession and enjoyment of the said property; and both of them are working in abroad and they used to stay therein only during the vacation. While so, the fourth respondent, who is residing at the first floor of the property, has put up illegal construction effacing the common area, which is meant for the use and occupation for the allottees of the block, besides closing the windows of the bedroom situated on the northern side of the petitioner's property. Owing to the illegal and unauthorised construction put up by the fourth respondent, the drainage and water facility to the petitioner's portion was completely blocked. Aggrieved against the deplorable activities of the fourth respondent, the petitioner filed a complaint to the second respondent on 29.09.2021, but there was no action taken thereof. Subsequently, he sent a detailed representation to the respondent authorities on 02.12.2021, which is kept pending without any progress. Therefore, the petitioner has come up with this writ petition for the aforesaid relief.

3. The learned counsel for the petitioner submitted that inspite of the complaint given by the petitioner, explaining the acts of the fourth respondent, thereby denying free access to his portion, followed by a detailed representation, the respondents have not taken any action thereof. Therefore, the learned counsel prayed this court to issue appropriate direction to respondent authorities to remove the illegal construction put up by the fourth respondent by considering the representations of the petitioner.



4. On the other hand, Mr. K.Raja Srinivas, learned counsel taking notice for the respondents 1 to 3 fairly submitted that the respondent authorities would consider the claim of the petitioner and pass appropriate orders, on merits, within a time frame to be stipulated by this court.

5. Considering the nature of the relief sought herein and having regard to the submissions made by the learned counsel on either side, without going into the merits of the case, we direct the respondent authorities to consider the representations of the petitioner dated 29.09.2021 and 02.12.2021 and pass appropriate orders, on merits and in accordance with law, after providing an opportunity of hearing to the petitioner as well as fourth respondent, within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that if the fourth respondent has made any illegal construction, the respondent authorities shall deal with the same in the manner known to law.

6. With the above direction, this writ petition stands disposed of. No costs.

Sd/-
Deputy Registrar (CS)

// True Copy //

Sub Assistant Registrar

dhk/rsh

To

- 1.The Commissioner
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W.P.No.27297 of 2021

SMI (CO)
RVM(24/01/2022)