



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.2695 of 2022

P.B.Preetha

... Petitioner

vs

1.The Executive Officer,
Madambakkam Panchayat,
Madambakkam,
Chennai - 600 126.

2.The Chennai Metropolitan Development Authority,
Rep by its Member Secretary,
1, Gandhi Irwin Road,
Ansari Estate, Egmore,
Chennai - 600 008.

3.Praveenkumar

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the first and second respondents to take necessary and appropriate action against the third respondent and to demolish the unauthorised construction put up by the third respondent at S.No.752/1A1 B Part, 752/1 Part which is bounded on east side: 20 Feet Road, West Side: Empty Plot, North Side: 281 Part and South Side - 280 Part.

For Petitioner	:	Ms.Selvi George
For Respondent 1	:	Mr.C.Harsharaj Standing Counsel
For Respondent 2	:	Mrs.C.Sumathi Standing Counsel
For Respondent 3	:	Mr.M.S.Murali



ORDER

[Order of this Court was delivered by T.RAJA, J.]

The petitioner, Ms.P.B.Preetha, D/o.P.Babu, residing at No.280, Malleeswari Nagar Main Road, Madambakkam Post, Chennai, has come to this Court for issuance of a Writ of Mandamus to direct the first and second respondents to take necessary and appropriate action against the third respondent and to demolish the unauthorised construction put up by him at S.No.752/1A1 B Part, 752/1 Part.

2.Learned Counsel for the petitioner submitted that the third respondent Mr.Praveenkumar, who is the cousin of the petitioner, started to put up construction in the subject property without leaving any setback space. He has also demolished the existing structure (shed) for the purpose of raising new wall and dug foundation without leaving any setback space thereby denying the easementary right of sun and light to the petitioner. Besides, the unauthorised construction will also danger to existing building. He further submitted that when planning permission is pre-requisite and no one is entitled to put up any construction without prior planning permission, the third respondent without taking any planning permission has started to put up construction. Therefore, a representation has been made by the petitioner on 25.01.2022 to the first respondent to take appropriate action. Since there was no response from the first respondent, the petitioner has come forward with this Writ Petition.

3.Learned Standing Counsel appearing for the first respondent submitted that the first respondent received the application from the third respondent seeking planning permission and visited the place in question on 28.01.2022 and as the third respondent has already put up six pillars, the first respondent orally instructed him not to proceed with any further construction. Learned Standing Counsel also acknowledged the receipt of the representation from the petitioner and stated that no written response was given thereon.

4.At this stage, learned Counsel for the petitioner submitted that since the learned Counsel for the first respondent has admitted the case of the petitioner that the third respondent has put up illegal construction, the same shall be directed to be removed.

5.At this juncture, learned Counsel for the third respondent fairly submitted that the third respondent would remove the six pillars within a period of two weeks and further submitted that only after getting appropriate planning permission, the third respondent will proceed with the further construction.



6. We find no justification on the side of the third respondent to put up any construction without leaving any setback area, as it is not permissible in law and also without obtaining any planning permission from the competent authority. Therefore, the third respondent is directed to remove the six pillars put up by him within a period of two weeks from today. The first respondent is also directed to consider the application filed by the third respondent seeking planning permission on merits and in accordance with law as early as possible.

7. With the above direction, this Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

srm
To

1. The Executive Officer,
Madambakkam Panchayat,
Madambakkam,
Chennai - 600 126.

2. The Member Secretary,
Chennai Metropolitan Development Authority,
1, Gandhi Irwin Road,
Ansari Estate, Egmore,
Chennai - 600 008.

+1 cc to Ms. Selvi George, Advocate Sr.NO. 11804
+1 cc to M/s. R&P. Partners, Advocate Sr.NO. 11424

W.P.No.2695 of 2022

gj(CO)
A.SK(08/03/2022)