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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2022

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THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P. No.5120 of 2022

M.Thangavel

... Petitioner

vs

1. The Commissioner,
Greater Chennai Corporation,
Rippon Buildings,
Chennai.
2. The Member Secretary,
CMDA Building,
Thaalamuthu Natarajan Maligai,
No.1, Gandhi Irvin Road,
Ansari Estate Egmore,
Chennai - 600 008.
3. The Zonal Officer,
Greater Chennai Corporation,
Zone 6, No.5, Andersons Salai,
Aynavaram, Chennai - 600 023.
- 4.Saravanan
- 5.S.Bharath
- 6.Krishnaveni

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the respondents 1 to 3 to demolish the illegal construction of building belongs to respondents 4 to 6 bearing Old No.45, Subburayan 2nd Street and Chinnababu Street, Nammalwerpet, Otteri, Chennai-600 012 by considering the petitioner's representation dated 29.01.2022.

For Petitioner : Mr.K.Prabhakaran



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For Respondents : Mr.K.Raja Shrinivas,
Standing Counsel (Corporation)
for R1 & R3

Mrs.C.Sumathi,
Standing Counsel (CMDA) for R2

ORDER

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

The petitioner has come to this Court for issuance of a writ of Mandamus seeking a direction to respondents 1 to 3 to demolish the illegal construction of building, belongs to respondents 4 to 6, bearing Old No.45, Subburayan 2nd Street and Chinnababu Street, Nammalwerpet, Otteri, Chennai-600 012, by considering his representation dated 29.01.2022.

2.Learned counsel appearing for the petitioner submitted that adjacent to the building of the petitioner, respondents 4 to 6 have constructed a building, bearing Old No.45, without obtaining any permission from respondents 1 to 3. In this regard, earlier the petitioner had given a representation to respondents 1 to 3 for demolition of un-authorized construction. Despite the same, respondents 1 to 3 did not take any action against the said illegal construction. Therefore, the petitioner filed W.P. No.3870 of 2021 seeking for grant of lock and seal and demolish the un-authorized construction. This Court, by order dated 15.12.2021, recording the submission made by respondents 1 to 3 that the official respondents have initiated action against the un-authorized building, closed the same. But till date no action was taken. Since respondents 4 to 6 have constructed the building in an illegal manner, which would cause dangerous consequences to the nearest residents, the petitioner again sent a detailed representation on 31.01.2022 to respondents 1 to 3 with respect to the un-authorized construction. Since there is no response till now, the petitioner is before this Court for the above direction.

3.Mr.K.Raja Shrinivas, learned Standing Counsel appearing for R1 and R3 Corporation, placing on record a Stop Work Notice dated 13.01.2022 issued by the Assistant Engineer, Division 074 and the Assistant Executive Engineer, Unit 17, submitted that notice has been issued to respondents 4 to 6 to stop the work immediately and confirm the same in writing, within 15 days' time making it clear that if they fail to comply with the notice within the stipulated time, the authority will be constrained to take legal action against the construction and issue de-occupation notice.



4. Mrs. C. Sumathi, learned Standing Counsel appearing for R2 CMDA, placing on record a letter dated 17.02.2022, submitted that a complaint received from the petitioner to take action on the construction said to have been made, is under process.

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5. Considering the submission made by both sides, we are inclined to issue suitable direction to the official respondents to consider the request of the petitioner. Accordingly, respondents 1 to 3 are directed to remove the encroachments, if any made by respondents 4 to 6 and pass appropriate orders, on merits and in accordance with law, after giving notice to the necessary parties, within a period of eight weeks from the date of receipt of a copy of this order. With the above direction, this writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Greater Chennai Corporation,
Rippon Buildings,
Chennai.
2. The Member Secretary,
CMDA Building,
Thaalamuthu Natarajan Maligai,
No.1, Gandhi Irvin Road,
Ansari Estate Egmore,
Chennai - 600 008.
3. The Zonal Officer,
Greater Chennai Corporation,
Zone 6, No.5, Andersons Salai,
Aynavaram, Chennai - 600 023.

+1cc to Mr. K. Prabhakaran, Advocate, S.R.No.15120

+1cc to Mr. K. Raja Shrinivas, Advocate, S.R.No.15988

W.P.No.5120 of 2022

NR (CO)

CT 18/03/2022