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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.9049 of 2022

R.S.Indira

...Petitioner

vs

1. The Commissioner,
Greater Chennai Corporation,
Chennai 600 003.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai 600 008.
3. Lokesh
4. The Executive Engineer,
Zone-5, Greater Chennai Corporation,
Chennai.

...Respondents

(the fourth respondent is suo motu impleaded
vide order dated 12.04.2022 passed by this
Court in W.P. No.9049 of 2022)

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus forbearing the third respondent from in any manner continuing and carrying on the illegal construction activity at Door No.53, Ritherdon Road, Vepery, Chennai 600 007 without having valid construction permission and consequentially direct the 1st and 2nd respondents to initiate action as contemplated under Section 56 of the Town and Country Planning Act, 1971.

For Petitioner : Mr.C.Rajan

For Respondents: Mr.K.Raja Shrinivas,
Standing Counsel
Corporation of Chennai for R1
Mrs.P.Veenasuresh,
Standing Counsel
CMDA for R2



ORDER

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

The petitioner has come to this Court with this petition for issuance of a writ of Mandamus under Article 226 of the Constitution of India forbearing the third respondent from in any manner continuing and carrying on the illegal construction activity at Door No.53, Ritherdon Road, Vepery, Chennai 600 007 without having valid construction permission and seeking a direction to respondents 1 and 2 to initiate action as contemplated under Section 56 of the Town and Country Planning Act, 1971.

2.Learned counsel appearing for the petitioner submitted that the petitioner, who is the owner of the property, situated at Old No.29, New No.30, Ritherdon Road, Vepery, Chennai 600 007, is residing in the above said place for more than sixty years along with his children and the third respondent, being the neighbour of the petitioner, has been residing in the western boundary of the petitioner's property. While so, on 02.03.2022, the third respondent, without getting any prior approval from the Commissioner, Greater Chennai Corporation, Chennai, the first respondent herein had started to demolish the superstructure of his property and in that process, he had trespassed into the petitioner's property and demolished the compound wall, which had been built by him separating his property with that of the third respondent's property. In this regard, the third respondent had also uprooted two trees situated in his property and without informing him, he had started to dig large pits so as to lay the foundation work. Learned counsel for the petitioner further submitted that since the petitioner came to understand that the third respondent had neither obtained building approval nor the planning permission approval from the competent authority, the petitioner made a representation dated 21.03.2022 to the first respondent. As the same has not been considered, the petitioner is before this Court.

3.Learned Standing Counsel appearing for the Corporation/ respondents 1 and 2 submitted that the petitioner has impleaded only the Commissioner, Greater Chennai Corporation and the Member Secretary, Chennai Metropolitan Development Authority, without impleading the Executive Engineer, Zone-5, Greater Chennai Corporation, Chennai, who is the competent authority to initiate action against the demolition.

4.Learned counsel for the petitioner further submitted that the petitioner has given a representation to the first respondent to consider his grievance, but any competent officer may be deputed to consider his grievance and to take action



against the third respondent. Learned counsel for the petitioner further submitted that the petitioner is also prepared to implead the Executive Engineer, Zone-V, Greater Chennai Corporation, Chennai as the fourth respondent.

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5. Since the petitioner has come to this Court with the limited prayer, instead of keeping the matter pending for impleading the Executive Engineer, Zone-V, Greater Chennai Corporation, Chennai, we are inclined to implead him as the fourth respondent. Accordingly, the Executive Engineer, Zone-V, Greater Chennai Corporation, Chennai is hereby suo motu impleaded as the fourth respondent and he is directed to consider the representation given by the petitioner and take action in accordance with law, within a period of four weeks from the date of receipt of a copy of this order, after issuing notice to the third respondent, the petitioner and other necessary parties and if the fourth respondent, on proper consideration of evidence, comes to the conclusion that the claim made by the petitioner is true and correct, he shall do the needful.

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

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

vga

To

1. The Commissioner,
Greater Chennai Corporation,
Chennai 600 003.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai 600 008.
3. The Executive Engineer,
Zone-5, Greater Chennai Corporation,
Chennai.

+1cc to Mr.K.Rajashrinivas, Advocate, S.R.No.25272

+2cc to M/s.C.Rajan, Advocate, S.R.No.25207

+1cc to M/s.P.Veena Suresh, Advocate, S.R.No.25175

W.P.No.9049 of 2022

RP(CO)

RGA(27/04/2022)