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W.P.No.1327 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.No.1327 of 2019 and
W.M.P.No.1488 of 2019

K.Damodaran

.. Petitioner

Vs.

1.The Member Secretary,
Chennai Metropolitan Development Authority,
Gandhi – Irwin Road,
Egmore, Chennai – 600 008.

2.The Commissioner,
Corporation of Chennai,
Rippon Buildings, Chennai.

3.Assistant Executive Engineer,
Zone – 08, Division 97,
Corporation of Chennai,
Shenoy Nagar, Thiru Vika Park,
Chennai – 600 030.

4.Jayaraman

5.The executive Officer,
Parasurama Eswaran Koil,
Aynnavaram, Chennai – 600 023.

.. Respondents

(R5 impleaded vide order of this Court
dated 17.07.2019 made in W.M.P.No.
11699 of 2019 in W.P.No.1327 of 2019)



Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondent authorities to immediately stop the illegal construction activities by the 4th respondent and to demolish and remove the illegal and unauthorized superstructure already put up over the property viz., Plot No.10, Parasurama Eswaran Koil West Mada Street, Ayanavaram, Chennai – 23 by the 4th respondent, within a time limit stipulated by this Court.

For Petitioner	: Mr.S.Thanka Sivan
For RR 2 & 3	: Mr.A.C.Manibharathi Standing Counsel
For R5	: Mr.S.Yashwanth Additional Government Pleader

ORDER

(Order of the Court was delivered by V.M.VELUMANI,J.)

The petitioner has come out with the present Writ Petition for a direction to the respondents 1 to 3 to immediately stop the illegal construction put up by 4th respondent, to demolish and remove the illegal and unauthorized superstructure already put up over the property viz., Plot No.10, Parasurama Eswaran Koil West Mada Street, Ayanavaram, Chennai – 23 by the 4th respondent.

2.According to petitioner, he is the owner of the property bearing

<https://www.mhc.tn.gov.in/judis> Plot No.8/3, Parasurama Eswaran Koil West Mada Street, Ayanavaram,



Chennai – 600 023. In the second week of July 2018, the 4th respondent started demolition work in Plot No.10, Parasurama Eswaran Koil West Mada Street, Ayanavaram, Chennai – 600 023 and started putting up construction in the said land by using heavy machineries. The machineries used to demolition and construction activities causes damages to the petitioner's property to the tune of Rs.20,00,000/-. When the petitioner questioned about the such illegal act of the 4th respondent, the 4th respondent behaved violently and threatened him using iron welding equipment. The 4th respondent is not the owner of the said land in which he is putting up construction and the said land is owned by Parasurama Eswaran Koil, Ayanavaram. The 4th respondent has not even obtained any sanction for either demolition of existing building or sanction for building plan for the said construction from the competent authorities. Hence, the petitioner sent representation dated 27.07.2018 to the respondents 1 to 3 to take immediate action against the 4th respondent. Further, he sent complaint to the Commissioner of Police in this regard. On receipt of the representation, the 1st respondent on 07.08.2018, requested the respondents 2 & 3 to take necessary action against the illegal construction put up by 4th respondent. The Inspector of Police, Ayanavaram Police Station called the petitioner for an enquiry with regard to the representation forwarded to the Commissioner of



Police and the petitioner attended the enquiry on 26.09.2018. Since, no action was taken by the respondents 1 to 3 against the 4th respondent, the petitioner has come out with the present Writ Petition.

3.Mr.A.C.Manibharathi, learned Standing Counsel appearing for respondents 2 & 3 submitted that the officials of the Corporation inspected the property in question and found that the entire construction is unauthorized and notice was issued to the 4th respondent during the month of September 2018 under Sections 56 & 57 of the Tamil Nadu Town and Country Planning Act, 1971. In view of the pendency of the Writ Petition, the Corporation has not initiated further proceedings and prayed for passing suitable orders.

4.Mr.S.Yashwanth, learned Additional Government Pleader appearing for the 5th respondent submitted that both the petitioner as well as 4th respondent encroached the Temple property and they were inducted as tenants in the Temple property and subsequently for non payment of rent, lease was terminated and order was passed. The 5th respondent filed suit in O.S.No.5215 of 2018 for removal of unauthorized construction and injunction restraining the petitioner as well as 4th respondent from putting up further construction and prayed for passing suitable orders.



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5.Heard the learned counsel appearing for the parties and perused the entire materials on record.

6.In view of the above submissions, without deciding the other issues raised by 5th respondent and learned counsel for petitioner, the Corporation officials are directed to proceed further, after issuing notice to the petitioner as well as 4th respondent within a period of two weeks from the date of receipt of a copy of this order, as per the earlier notice issued during September 2018 and take further action for removal of unauthorized construction within a period of eight weeks thereafter.

7.With the above directions, the Writ Petition is disposed of. Consequently, the connected Miscellaneous Petition is closed. No costs.

(V.M.V., J) (V.L.N., J)
28.04.2023

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No



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and

V.LAKSHMINARAYANAN, J.

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To

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