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W.P.No.30697 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2023

CORAM :

THE HON'BLE MR. JUSTICE R. MAHADEVAN

AND

THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.No.30697 of 2016 &
W.M.P.No.26598 of 2016

N.Ramesh

... Petitioner

Vs.

1.The Commissioner,
Greater Chennai Corporation,
Chennai - 600 003.

2.The Regional Joint Commissioner (South),
Greater Chennai Corporation,
No.115, Dr.Muthulakshmi Salai,
Adyar, Chennai - 600 020.

3.The Deputy Collector (Revenue),
Office of the Regional Joint Commissioner (South),
Greater Chennai Corporation,
No.115, Dr.Muthulakshmi Salai,
Adyar, Chennai - 600 020.

4.The Superintending Engineer,
Office of the Regional Joint Commissioner (South),
Greater Chennai Corporation,
No.115, Dr.Muthulakshmi Salai,
Adyar, Chennai - 600 020.

5.N.Venkatesh

... Respondents



W.P.No.30697 of 2016

WEB COPY Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Mandamus, directing the respondents 1 to 4 to demolish the illegal constructions constructed by the fifth respondent in the property bearing New No.6, Old No.18, 6th Cross Street, Sasthri Nagar, Adyar, Chennai -600 020.

For petitioner : Mr.J.Lakshmi Narayanan
For respondents : Mr.G.T.Subramaniam
Standing Counsel for R1 to R4
Mr.C.S.Kiran for R5

ORDER

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

Heard all the parties and perused the materials available on record.

2.According to the petitioner, the property bearing new No.6, old No.18, 6th Cross Street, Sasthri Nagar, Adyar, Chennai, originally belonged to his father by name A.Narayanaswami and after his demise, by a family arrangement, the said property was allotted to the petitioner, however, his elder brother / fifth respondent without obtaining building plan approval and without the knowledge of the other legal heirs, constructed a new building in the said property. Furthermore, without getting any sanction from the Corporation Officials, the fifth



W.P.No.30697 of 2016

respondent made alterations in the existing building. Pointing out the same, the petitioner made a representation to the respondent authorities on 06.07.2016, requesting to remove the illegal and unauthorised construction made in the said property. However, till date, no action has been taken on the same. Therefore, the petitioner has come up with this writ petition for issuance of writ of mandamus, directing the respondents 1 to 4 to demolish the illegal construction made by the fifth respondent in the subject property.

3.Upon notice, the first respondent filed a detailed counter affidavit, wherein, it is *inter alia* stated as follows:

"4.I respectfully submit that earlier one Mr.N.Kasivisvanathan, one of the brother of the petitioner herein had filed a Writ Petition in W.P.No.30953 of 2016 praying for issuance of a Writ of Mandamus directing respondents 1 to 4 to consider the representation dated 30.5.2016 and take necessary action within a stipulated time as may be deemed fit. The Hon'ble High Court by its order dated 07.09.2016 has passed an order....

5.I respectfully submit that pursuant to the above orders of the Hon'ble High Court personal hearing has been conducted and found that fourth respondent herein has obtained planning permission vide PPA/WDC/01076/2011 and BA/CD10/01723/2011 dated 25.04.2011. Further the fifth respondent herein has commenced the additional construction work without obtaining planning permission from the competent authority, hence, action against the unauthorised construction was initiated and the construction work was stopped.

6.I respectfully submit that now the petitioner has filed the above writ petition with same allegations against the fifth respondent herein.

7.I respectfully submit that if any unauthorised construction work was carried by the fifth respondent herein, further action against the fifth respondent will be taken as per the provisions of Tamil Nadu Town and Country Planning Act, 1971."



W.P.No.30697 of 2016

WEB COPY

4.Further, the learned Standing Counsel appearing for the first respondent produced a copy of the communication sent by the Chennai Corporation to the fifth respondent and his brother N.Kasiviswanathan, dated 17.03.2017, in which, it is *inter alia* stated that based on the enquiry, it was found that the construction made by the fifth respondent in the subject project is an unauthorised one and hence, further course of action would be taken as per the the Town and Country Planning Act, 1971. Stating so, the learned counsel submitted that the respondent authorities would take appropriate action, in the event of failure on the part of the fifth respondent in demolishing the unauthorised construction made by him, within a time frame to be stipulated by this court.

5.At this juncture, it is submitted by the learned counsel for the fifth respondent that the fifth respondent on his own volition, will demolish the unauthorised portion in the subject property and comply with the direction of the respondent authorities, within a period six weeks.

6.Taking note of the fact that the fifth respondent made unauthorised construction in the subject property viz., New Door No.6, Old Door No.18, 6th Cross Street, Sasthri Nagar, Adyar, Chennai, and in view of the submission made by the learned counsel for the fifth respondent, this court directs the fifth respondent to demolish/remove the unauthorised construction, within a period of



W.P.No.30697 of 2016

six weeks from the date of receipt of a copy of this order, failing which, it is open to the respondent authorities to proceed further, as per law.

7. With the aforesaid direction, this writ petition is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

[R.M.D,J.] [M.S.Q, J.]
31.01.2023

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Speaking (or) Non-Speaking Order

Internet : Yes.

Index : Yes / No

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W.P.No.30697 of 2016

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