



WEB COPY



W.P.No.179 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

Writ Petition No.179 of 2018

Selvaraj

.. Petitioner

Vs.

1.The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road
Egmore, Chennai-600 008.

2.The Commissioner
Avadi Municipality
Avadi, Chennai-600 054.

3. D.P.Chandramathi

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents to take appropriate action against the 3rd respondent for constructing the unauthorised building in the premises situated in S.F.No.716/10/2A, Door No.9, Jeevanantham 4th street, Kumaran Nagar, Avadi, Chennai-600 071 in compliance of the order made by the 2nd respondent in Na.Ka.No.10538/2015/F1, dated 03.11.2015 in accordance with law within the time limit fixed by this Court.



W.P.No.179 of 2018

For Petitioner : Mr.M.G.Ramachandiran
For R1 : Mr.C.N.Vinobha
Standing Counsel
For R2 : Mr.R.Gopinath
Standing Counsel
For R3 : Mr.B.Chandran

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 & 2 to take appropriate action against the 3rd respondent for constructing the unauthorised building in the premises in compliance of the order made by the 2nd respondent dated 03.11.2015 in accordance with law within the time limit fixed by this Court.

2. Heard the learned counsel appearing for the petitioner as well as the learned Standing Counsel appearing for the respondents 1 & 2 and learned counsel appearing for the 3rd respondent and perused the entire materials on record.



WEB COPY

3. According to the petitioner, he is the owner of the house bearing No.11, Jeevanantham 4th street, Kumaran Nagar, Avadi, Chennai. The 3rd respondent is the owner of ground + first floors building situate in S.F.No.716/10/2A, Door No.9, Jeevanantham 4th street, Kumaran Nagar, Avadi, Chennai. The 3rd respondent has put up construction in her property. At the time of construction, the 3rd respondent damaged the building of the petitioner. In view of the same, the petitioner gave a representation to the 1st respondent to take action against the 3rd respondent. The 1st respondent referred the representation of the petitioner to the 2nd respondent as per the delegated powers given to the 2nd respondent. The 2nd respondent issued notice dated 26.12.2014 under Section 216(1) & (2) of the Tamil Nadu District Municipality Act, 1920 to the 3rd respondent marking copy to the petitioner. However, the 2nd respondent has not taken any action against the 3rd respondent. Subsequent to the direction of the 1st respondent, the 2nd respondent issued demolition order against the 3rd respondent.

4. The learned counsel appearing for the petitioner submitted that subsequent to the notice dated 26.12.2014, the 2nd respondent did not take any follow up action. Hence, the petitioner has sent representation to



the 1st respondent. For the third time, the 1st respondent by the proceedings dated 24.04.2017 directed the 2nd respondent to take action against the 3rd respondent as per the delegated powers. The 2nd respondent did not take any action. Again the petitioner sent a representation to the 2nd respondent and has come out with the present Writ Petition.

5. Learned counsel appearing for the 2nd respondent submitted that 3rd respondent has not obtained any permission from the 2nd respondent or 1st respondent for construction. The construction put up by the 3rd respondent is unauthorised one. There is a dispute between the petitioner and 3rd respondent. On receiving complaint from the petitioner, the 2nd respondent issued notice under Section 216(1) and (2) of the Tamil Nadu District Municipality Act, 1920 and due to pendency of the civil suits, the 2nd respondent did not take further action and prayed for passing suitable orders.

6. The 3rd respondent entered appearance and filed counter affidavit. The 3rd respondent has made averments with regard to the dispute between the petitioner & 3rd respondent and civil suits in



O.S.Nos.406 & 1009 of 2005 on the file of the Principal District Munsif Court, Poonamallee.

7. The learned counsel appearing for the 3rd respondent submitted that 3rd respondent has obtained approval and constructed the building and there is no unauthorised construction put up by her.

8. From the above rival submissions and materials on record, it is seen that on the representation of the petitioner, the 1st respondent instructed the 2nd respondent three times to take action against the 3rd respondent. The 3rd respondent issued notice dated 26.12.2014 under Section 216(1) and (2) of the Tamil Nadu District Municipality Act, 1920. Subsequently, from the notices issued by the 2nd respondent, it is seen that 2nd respondent instructed the 3rd respondent that building put up by the 3rd respondent is unauthorised one and if she fails to remove the unauthorised construction, Officials of the 2nd respondent will remove the same. Subsequently, the 2nd respondent did not take any further action.

9. Considering the above facts and the submissions made on either side, the 2nd respondent is directed to inspect the property of the 3rd



W.P.No.179 of 2018

respondent after issuing notice to the petitioner as well as 3rd respondent within a period of two weeks from the date of receipt of a copy of this order and if there is any unauthorised construction put up by the 3rd respondent as alleged by the petitioner and 2nd respondent, take action immediately within a period of four weeks thereafter and file a status report before this Court.

10. With the above directions, the Writ Petition is disposed of. No costs.

Post this matter **“For reporting compliance”** in the First week of June 2023.

(V.M.V., J) (V.L.N., J)
27.03.2023

Index : Yes / No
Neutral Citation : Yes / No

kj



W.P.No.179 of 2018

WEB COPY

To

1.The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road
Egmore, Chennai-600 008.

2.The Commissioner
Avadi Municipality
Avadi, Chennai-600 054.



WEB COPY



W.P.No.179 of 2018

**V.M.VELUMANI,J.
and
V.LAKSHMINARAYANAN,J.**

Kj

Writ Petition No.179 of 2018

27.03.2023