



WEB COPY



W.P.No.2717 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

and

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.No.2717 of 2018

S.Ramesh

.. Petitioner

Vs.

1.The Chennai Metropolitan Development Authority,
Rep. by its Member Secretary,
Thalamuthu Natarajan Maaligai,
Gandhi-irwin Road, Egmore,
Chennai – 600 008.

2.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai – 600 003.

3.The Assistant Engineer,
124 Ward, Zone -
Luz Church Road, Mylapore,
Chennai – 600 004.

4.Velu

5.V.Sivagami

(R5 impleaded vide order of this Court
dated 08.04.2019 made in W.M.P.No.20657
of 2018 in W.P.No.2717 of 2018)



W.P.No.2717 of 2018

6.The Tahsildar,
No.46, Greenways Road,
Raja Annamalaipuram,
Chennai – 600 028.

.. Respondents

(R6 suo motu impleaded vide order of this
Court dated 15.03.2023 in W.P.No.2717 of
2018)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents 2 & 3 to consider the representation dated 08.01.2018 to demolish the unauthorized staircase put up by the 4th respondent in 20 feet passage in Gangadharan Colony in Door No.226 and 227, St. Marys Road, Mandaveli, Chennai – 600 028.

For Petitioner	: Mr.R.Chandrasudan
For R1	: Mr.R.Thamarai Selvan Standing Counsel
For RR 2 & 3	: Ms.P.T.Ramadevi Standing Counsel
For RR 4 & 5	: Mr.K.S.V.Prasad
For R6	: Mr.P.Gurunathan 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 2 & 3 to consider his representation dated



08.01.2018 to demolish the unauthorized staircase put up by the 4th respondent in 20 feet passage in Gangadharan Colony in Door No.226 and 227, St. Marys Road, Mandaveli, Chennai – 600 028.

2. According to petitioner, one Gangadhara Mudaliar was the owner of the property measuring larger extent and he constructed continuous row houses bearing old municipal door Nos.75/7, 75/8, 75/9, 75/10, 75/11 and 75/12. Thereafter, the said row houses were sold to various third parties including the petitioner. The petitioner is the owner of the property measuring about 660 sq.ft at Old Door No.228 and 75/10, New Door No.14, St. Mary's Road, Mandaveli, Chennai – 600 028 and the 4th respondent is residing adjacent to the petitioner's property. There is a 20 feet passage connecting the St. Marys Road on the southern side, which is main access to the persons who are residing in the row houses. When the petitioner demolished his portion of the dilapidated building to construct new house, the 4th respondent made an attempt to interfere his peaceful possession. Hence, the petitioner filed suit in O.S.No.2136 of 2017 on the file of the XVI Assistant City Civil Court, Chennai for permanent injunction and the same is pending. At the end of the common passage, the 4th respondent constructed a staircase, without obtaining any



approval or sanction from the respondents 2 & 3, which affects more than 15 residents of the area. Hence, the petitioner gave a representation dated 08.01.2018 to the respondents 1 to 3 to take suitable action against the unauthorized superstructure. Since, no action has been taken on the said representation dated 08.01.2018, the petitioner has come out with the present Writ Petition.

3.The respondents 2 & 3 filed counter affidavit. The learned Standing Counsel appearing for respondents 2 & 3 submitted that on receipt of the representation of the petitioner, officials of Corporation inspected the property on 18.01.2018 and issued notice dated 19.01.2018, calling for approved plan under Sections 56 & 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 to the 4th respondent. In the meanwhile, the petitioner filed Writ Petition. This Court by the order dated 07.02.2018, directed the Corporation to file status report along with FMB sketch. As and when FMB sketch is furnished, the respondents 2 & 3 will take further action and prayed for passing suitable orders.



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4.The 4th respondent filed counter affidavit. The learned counsel appearing for the 4th respondent submitted that the 4th respondent is the owner of the property. The staircase in question was constructed 20 years before. The petitioner damaged southern wall of the 4th respondent's property. The 4th respondent put up unauthorized construction. In view of the complaint made by the 4th respondent against the petitioner, he filed Writ Petition making false allegation against the 4th respondent. The Civil Suit is pending with regard to dispute between the petitioner and 4th respondent and prayed for dismissal of the Writ Petition.

5.This Court on 15.03.2023, suo motu impleaded The Tahsildar, Raja Annamalaipuram as 6th respondent in the present Writ Petition and directed Mr.P.Gurunathan, learned Additional Government Pleader to get instructions from The Tahsildar, Raja Annamalaipuram to produce the FMB sketch / Topo sketch / layout, pertaining to the property in question. As per the order of this Court dated 15.03.2023, today Mr.P.Gurunathan, learned Additional Government Pleader appearing for 6th respondent, filed report of the Tahsildar, Raja Annamalaipuram, dated 27.03.2023.



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

7.From the above materials, it is seen that both the petitioner and 4th respondent are making allegations against each other contending that construction put up by other person is unauthorized. In view of the allegations against each other, the respondents 1 to 3 are directed to inspect both the properties within a period of four weeks from the date of receipt of a copy of this order, after issuing notice to the petitioner and respondents 4 & 5 and if there is any unauthorized construction put up by the petitioner, respondents 4 & 5 and others is found during inspection, the respondents 1 to 3 are directed to take appropriate proceedings in accordance with law, within a period of eight weeks thereafter.

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

(V.M.V., J) (V.L.N., J)
29.03.2023

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Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No



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