



W.P.No.22883 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P. DHANABAL

W.P.No.22883 of 2019 and

WMP No.22511 of 2019

B.Sukumar

... Petitioner

Vs.

1. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irvin Road, Egmore, Chennai 600 008.
2. The Commissioner, Greater Chennai Corporation,
Rippon Buildings, EVR Road, Chennai 600 003.
3. The Executive Engineer, Zone-VI,
Ward No.78, No.55, Anderson Road,
Ayanavaram, Chennai 600 023.
4. The Chairman, TANGEDCO, NPKRA Maligai,
No.144, Annasalai, Chennai 600 002.
5. The Chairman, Chennai Metro Water Supply
and Sewerage Board, No.1, Pumping Station Road,
Chintadripet, Chennai 600 002.

6. C. Aarthi

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 to 3 to demolish the illegal and unauthorized construction put up by the 6th respondent in the premises situated at No.14, Ashtapujam first lane, Choolai, Chennai 600112.

For Petitioner : Mr.S.Danush

For Respondents : Ms.P.Veena Suresh,
Standing Counsel for R1

Ms.P.T.Ramadevi,
Standing Counsel for R2 and R3

Mr.L.Jaivenkatesh, Standing Counsel for R4

Mr.Jerry V.V.Sundar for R5

ORDER

(Order of the Court was delivered by D.KRISHNAKUMAR, J.)

This Writ Petition has been filed to direct the respondents 1 to 3 to demolish the illegal and unauthorized construction put up by the 6th respondent in the premises situated at No.14, Ashtapujam first lane, Choolai, Chennai 600112.



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2. The sixth respondent is the owner of the property bearing No.14, Ashtapujam first lane, zone-VI, Choolai, Chennai 600 112 and she had constructed three floors building, without obtaining planning permission from the authorities concerned and further, electricity service connection was also given to that property. Though the petitioner has given letter dated 19.09.2018 to the respondents 1 to 3 to take action against the illegal construction, and also through his counsel dated 12.11.2018, no action has been taken. Hence the writ petition.

3. The first respondent has filed counter affidavit stating that, the CMDA has not issued any planning permission for the said building and only in the cases, for which CMDA has issued planning permission, they can take action, including Locking and Sealing of the premises under Section 56 and 57 of Tamil Nadu Town and Country Planning Act. Further, the power of CMDA was already delegated to the local bodies, namely the second respondent, as against the construction made, without obtaining any approval from the CMDA. Therefore, the second respondent is a competent authority to take action, against such buildings.



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4. The second and third respondents produced the documents before this Court, viz., i) Notice issued on 13.08.2019 under Section 56(1) and 57 r/w Section 85 of the Tamil Nadu Town and Country Planning Act issued to the sixth respondent, calling upon her to produce planning permission and ii) Notice of Lock and Seal and Demolition dated 30.08.2019 to the sixth respondent. Further the Inspection Report dated 16.08.2018 was also produced before this court, wherein, the official concerned found that the building was constructed, deviating the approved plan and that there are some deviations in the setbacks and also in the first, second and third floors.

5. In the light of the above said the records produced before this Court, it is clear that the sixth respondent has constructed the building, deviating the approved plan. Further, it is also seen from the records that the concerned respondents have already initiated action against the sixth respondent by issuing notice of lock & seal and demolition notice dated 30.08.2019. Therefore, the second respondent is directed to proceed further and take action with regard to the unauthorized construction, in accordance with law, after providing opportunities to the petitioner and the sixth



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respondent, within a period of twelve weeks from the date of receipt of a copy of this order.

6. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(D.K.K.J.)

(P.D.B.J.)

14.06.2023

Internet: Yes/No
Index : Yes/No
mst

To

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