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W.P.No.24768 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and
THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.No.24768 of 2022
and
W.M.P.Nos.23700 and 23701 of 2022

R.Balaji Premraj

.. Petitioner

Vs.

1.The Commissioner,
Chennai City Municipal Corporation,
Ripon Buildings,
Chennai – 600 003.

2.The Zonal Officer, Zone XII,
No.1, New Street, Alandur,
Chennai – 600 016.

3.The Assistant Executive Engineer,
Ward No.161, Zone XII,
Greater Chennai Corporation,
Chennai – 600 016.

4.S.Naren

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a WRIT OF MANDAMUS, directing the 1st and 2nd Respondents to take immediate action to stop forthwith the further construction of the building at Door No.15/4, Tamil Nadu NGO



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Colony 2nd Cross Street, Adambakkam, Chennai – 600 088 put up by the 4th Respondent contrary to the plan approved by the Greater Chennai Corporation and also in the light of the stop work notice issued by the Assistant Executive Engineer in Letter No. Ref.Notice No.12/0003/2021 dated 05.08.2022 and consequently the unauthorised construction put up by the 4th Respondent shall be demolished within a reasonable period as may be fixed by this Court.

For Petitioner : Mr.T.Ranganathan

For R1 to R3 : Mr.D.B.R.Prabhu
Standing Counsel

For R4 : Mr.S.Rajasekaran

ORDER

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

This writ petition has been filed seeking for a direction to the respondents 1 and 2 to take immediate action to stop the unauthorised construction at Door No.15/4 Tamil Nadu NGO Colony 2nd Cross Street, Adambakkam, Chennai - 600 088.

2. The petitioner pleads that the 4th respondent has put up construction contrary to the approved plan and therefore, the respondents 1 and 2 should take immediate action and demolish the same.



3. When the writ petition was taken up for hearing, an order passed by the Government of Tamil Nadu, Housing and Urban Development Department, dated 19.12.2022 was produced by Mr.S.Rajasekaran, learned counsel appearing for the 4th respondent.

4. From the order, it is clear that the respondents had infact initiated proceedings and passed an order to lock and seal the premises on 16.09.2022. Aggrieved by the same, the 4th respondent had filed a Special Revision dated 17.10.2022. Before the Special Revisional Authority, the 4th respondent had stated that though a planning permission had been obtained on 08.02.2022, the construction had certain deviations. He has given an undertaking, before the Government, that he will rectify the deviation and restore the building as per the approved plan within three months from the date of receipt of the copy of the order. Acceding to this request, the Government had also permitted him to restore the building as per the approved plan and kept the order of lock and seal in abeyance. It further directed the Greater Chennai Corporation to monitor and pursue further enforcement action if the 4th respondent fails to comply with the above direction.



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5. Mr.S.Rajasekaran, learned counsel appearing for the 4th respondent, on a pointed question to him, if he has complied with the aforesaid undertaking, he submitted that on account of the interim order granted by this Court on 14.09.2022 injuncting him from raising or putting up any further construction in the disputed area, he did not comply with the order dated 19.12.2022. This is rather surprising because even on the date on which he made his submission before the revisional authority i.e. on 17.10.2022, he was aware that there was an order of injunction.

6. In any event, the injunction only restrained him from putting up any further construction and did not prevent him to bring the property to its original position. Be that as it may, as he now states that he will bring the building in accordance with the approved plan and since he was under an assumption that he could do so on account of order of injunction, we permit the 4th respondent to comply with his undertaking recorded in Paragraph No.7 of the order passed by the Government dated 19.12.2022 on or before 26.04.2023. Failing which the Greater Chennai Corporation is directed to implement the direction given by the Government without any further reference to this Court.



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7. With the above direction, the Writ Petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

(V.M.V., J) (V.L.N., J)
02.03.2023

Index : Yes / No
Neutral Citation : Yes / No
dm

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and
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