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W.P.No. 30414 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

And

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

W.P.No. 30414 of 2023

and

WMP.No. 30018 of 2023

P. Venkatesan

...Petitioner

Versus

1.The Corporation of Chennai
Represented by its Commissioner
Ribbon Buildings
Chennai - 600 003.

2.The Assistant Commissioner
The Corporation of Chennai.
Ribbon Buildings
Chennai - 600 003.

3.The Zonal Officer
Zone - 11,
Chennai Metropolitan Corporation



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No. 123, Arcot Road
Chennai - 600 087.

4. The Executive Engineer,
Zone - 11,
Chennai Metropolitan Corporation
No. 123, Arcot Road
Chennai - 600 087.

5. S. Shanmugha Sundari

6. S. Murugan

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents 1 to 4 to take action in accordance with law and to demolish the unauthorized construction put by the 5th & 6th respondents in the property in Door No. 90/188, Perumal Koil Street, Alapakkam, Porur, Chennai - 600 116 in accordance with law.

For Petitioner : Mr.R. Srinivas
Senior Counsel

For RR 1 to 4 : Mr.D.B.R. Prabhu
Senior Counsel

For RR 5 & 6 : Mr.K. Premkumar



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ORDER

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Considering the limited scope of this writ petition, based on the arguments heard on either side, this Court is not inclined to discuss the facts in detail.

2. This writ petition is filed for issuance of Writ of Mandamus, directing the respondents 1 to 4 to take action in accordance with law and to demolish the unauthorized construction put up by respondents 5 & 6 in the property in Door No. 90/188, Perumal Koil Street, Alapakkam, Porur, Chennai - 600 116 in accordance with law.

3. It is the case of the petitioner that he is the owner of the building and plot in 88/189, Perumal Koil Street, Alapakkam, Porur, Chennai-600116. His neighbour, namely, the 6th respondent herein started a construction adjoining the petitioner's plot. It is stated by the petitioner that the 6th respondent had put up a construction in such a way that there is no space between the petitioner's building and the construction put up by the 6th respondent. The petitioner has



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made several representations to the official respondents requesting them to take immediate action in respect of the unauthorized constructions. It is admitted that notice was given to the 6th respondent on 24.01.2023 to stop work. A further notice to lock and seal and demolition notice dated 21.02.2023 was also issued. Since no action is taken pursuant to the order passed under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, the petitioner has come forward with the present writ petition.

4. The learned counsel appearing for the petitioner pointed out that the order dated 21.03.2023 passed under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act is final and there is no challenge by the petitioner as against the same. However, the learned counsel appearing for the 6th respondent explained in the counter affidavit that the petitioner, after the order, applied for fresh planning approval and obtained the same on 29.03.2023, which is done during the existing construction. Since the construction put up by the 6th respondent was still in violation of building regulations and not in



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conformity with the subsequent plan, it appears that fresh proceedings were initiated by the official respondents against the 5th respondent by issuing lock and seal and demolition notice dated 16.12.2023. Stating that the 5th respondent has preferred a revision as against the notice dated 16.12.2023 under Section 80-A of the Tamil Nadu Town and Country Planning Act, and the revision as well as a revised plan application including second floor construction submitted by the petitioner before the 4th respondent/Corporation, are pending.

5. The learned counsel appearing for the 6th respondent submitted that the petitioner's revision and the application for revised plan may be directed to be considered before proceeding further with any coercive action to bring down the structure pursuant to the previous order passed by the Corporation on 21.03.2023.

6. The learned Senior Counsel appearing for the petitioner has no serious objection for the revision as well as the revised plan submitted by the fifth



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respondent being considered within the time frame, if the official respondents are directed to give an opportunity to the petitioner to raise his objection.

7. Having regard to the facts of the case, this Court is inclined to dispose of the writ petition with the following directions:-

(i) The revision stated to have been filed by the 6th respondent as against the subsequent order dated 16.12.2023 to lock and seal and demolition of the building, shall be disposed of by the Government in accordance with the directions in W.P.No.2543 of 2024, dated 06.02.2024.

(ii) The revised plan submitted by the 5th respondent before the first respondent, shall be considered and the first respondent shall pass appropriate orders on the application for approval of revised plan dated 20.12.2023 within a period of 12 weeks from the date of receipt of a copy of this order.

(iii) Till such time the revision filed by the petitioner under



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Section 80-A of the Tamil Nadu Town and Country Planning Act, and the revised plan submitted by the 5th respondent are considered and disposed on merits in accordance with law after hearing the petitioner, the respondents shall not initiate any coercive action against fifth and sixth respondents. As indicated above the writ petitioner also shall be heard before passing final order.

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

Consequently, connected Miscellaneous Petition is closed.

[S.S.S.R., J] [N.S., J]
08.02.2024

msm

Index : Yes/No

Internet : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

To

1.The Corporation of Chennai



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S.S.SUNDAR, J
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