

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2016

CORAM

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M.VENUGOPAL

W.P. Nos.3693 of 2016 and 2773 to 2775 of 2016
and
W.M.P.Nos.3081 and 2310 to 2312 of 2016

1.M.Velu
2.V.Jayuashree .. Petitioners in
W.P.No.3693 of 2016

S.Guganathan .. Petitioner in
W.P.No.2773 of 2016

J.Rifaya Parveen .. Petitioner in
W.P.No.2774 of 2016

M.A.Ahamed Uduman .. Petitioner in
W.P.No.2775 of 2016

Vs.

1.The Commissioner,
Corporation of Chennai,
Rippon Building,
E.V.R. Salai, Chennai - 3.

2.The Member Secretary,
Chennai Metropolitan Development
Authority,
No.1, Gandhi Irwin Road,
Thalamuthu Natarajar Maligai,
Egmore, Chennai - 8.

3.E.Jayanthi
4.R.Ellangovan .. Respondents in
all the W.Ps

Petitions filed under Article 226 of The Constitution of India praying for the issuance of a writ of mandamus directing the respondents 1 and 2 to take appropriate action to demolish the illegal/unauthorised construction of third floor and remove

the encroachment in the car parking area made at Jeyam Apartments bearing Old No.15/16 (New No.29/1 & 31/1), V.M.Street, Royapettah, Chennai - 14 by making an inspection and forthwith to stop the illegal construction and take necessary action against the respondents 3 and 4 in terms of the governing provisions taking into consideration of the safety of the lawful owners in the building and to take immediate action against the respondents 3 and 4, who have totally floated the rules and regulations governing the building and take appropriate measures immediately as sought for in the petitioners' representation dated 06.01.2016.

For Petitioners.. Mr.S.R.Sundar
in all the W.Ps
For Respondents.. Mr.A.Nagarajan for R1
Mr.N.Sampath for R2
***in WP 3693/2016**
&
Mr.AR.L.Sundaresan,
Sr. Counsel
for Mr.G.Vasudevan for R3 and R4
***in all WPs**
Mr.V.C.Selvasekaran, Sr.Counsel
for R1 - in WP 2773 to 2775/16
Mr.K.rajashrinivas, Sr.Counsel
for R2 - WP 2773 to 2775/16.

COMMON ORDER

(Order of the Court was made by SATISH K.AGNIHOTRI, J.)

With the consent of the learned counsel appearing for the parties, the writ petition is taken up for final disposal.

2.The petitioners, who are stated to be the residents of one Jeyam Apartments, have come up with these writ petitions, seeking a direction to demolish the alleged unauthorised construction of third floor and also in the car parking area at Jeyam Apartments bearing Old No.15/16 (New No.29/1 & 31/1), V.M.Street, Royapettah, Chennai - 14.

3.Pursuant to our notice, the second respondent/Chennai Metropolitan Development Authority, has filed an affidavit stating as under:

"In this regard, it is informed that the Corporation of Chennai has issued Planning Permission approval for Stilt Floor (car parking) + 2 floors, residential building with 6 dwelling unit

vide P.P.A.No.D6/11842/2008 B.P.No.D6/0116/2009
dated 09.01.2009.

Regarding action against the unauthorised construction made in Jeyam Apartments, at Old No.15/16, New No.29/1 and 30/1, V.M.Street, Royapettah, Chennai - 14, the site under reference was inspected by CMDA officials on 03.02.2016 and observed that, the building under reference consisting of stilt floor (part) (car parking) + GF (part) (one commercial room (shop) of size - 2.74 m. x 4.80m) + 3 floors (4 dwelling units in each floor) with 12 dwelling units completed and occupied (except one dwelling unit at 3rd floor).

Since the stilt floor (car parking) + 2 floor, residential building with 6 dwelling unit was approved by Corporation of Chennai and the construction made at 3rd floor is an unauthorised one, the Corporation of Chennai was requested in letter No.EC/S-I/648/2016 dated 03.02.2016 to take necessary enforcement action against the unauthorised construction at the site under reference exercising the powers delegated by CMDA and also as per the MCMC Act, 1919. A copy of the letter No.EC/S-I/648/2016 dated 03.02.2016 has been sent to the petitioners for information. Therefore, further course of action will be taken by Corporation of Chennai as per rules in force."

4.It is submitted that it is the responsibility of Corporation to take action for removal of unauthorised portion in Jeyam Apartments. The Corporation has also filed an affidavit stating that notice has been issued to respondents 3 and 4 on 09 February 2016, calling upon them to submit the approved plan and on examination, if it is found that some portions are unauthorised and deviations have been made, immediately action will be taken to lock and seal the unauthorised portions, after issuing proper notice in accordance with law, to respondents 3 and 4.

5.In view of the above, no further adjudication or order is necessitated at this stage. However, we direct the first respondent Corporation to take further action in accordance with law and ensure that there is no unauthorised construction beyond the approved plan. It is further made clear that respondents 3 and 4 shall not permit any occupation in the alleged unauthorised portions, from today.

6.With the aforestated observations, the writ petitions

stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(VI)

**Corrections carried out
in appearance.**

**Sd/-
Assistant Registrar,
16.03.2016.**

//True Copy//

Sub Assistant Registrar

mmi

To

1.The Commissioner,
Corporation of Chennai,
Rippon Building,
E.V.R. Salai, Chennai - 3.

To be substituted to the
order already despatched
on 25.02.2016.

2.The Member Secretary,
Chennai Metropolitan Development
Authority,
No.1, Gandhi Irwin Road,
Thalamuthu Natarajar Maligai,
Egmore, Chennai - 8.

+1cc to Mr.A.Nagarajan, Advocate, S.R.No.8610
+1cc to Mr.K.Raja Shrinivas, Advocate, S.R.No.8705
+1cc to Mr.K. Moorthy, Advocate sr.8631
+1cc to the Government Pleader, S.R.No.8699

JSV(CO)
EU(22/02/2015)
kra 17.03.2016

W.P. Nos.3693 of 2016
and
2773 to 2775 of 2016

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