

**W.M.P. Nos. 14686 and 14687 of 2019
and
W.M.P. Nos. 14266, 14267 and 14268 of 2019
in
W.P. No. 14210 of 2019**

Reserved on : 23.05.2019

Pronounced on : 28.05.2019

**RMT. TEEKA RAMAN, J.
and
P.D. AUDIKESAVALU, J.**

The parties are hereinafter referred to as per their description in W.P. No. 14210 of 2019 for the sake of convenience.

2. This Court during the Vacation Sitting on 22.05.2019 and 23.05.2019 had taken up W.M.P. Nos. 14686 and 14687 of 2019 filed by the Ninth Respondent seeking urgent orders to vacate the interim directions in the order dated 09.05.2019 in W.M.P. Nos. 14266 to 14268 of 2019 in W.P. No. 14210 of 2019 and to direct the Official Respondents not to take any coercive steps against the Ninth Respondent pursuant to that order.

3. The Writ Petition in the nature of *pro bono publico* was moved by the Petitioner, viz., P. Krishnan, in the Vacation Sitting of this Court on

08.05.2019 seeking to call for the records and quash the letter bearing No. EC/N1/18500/2018 dated 25.02.2019 on the file of the Fourth Respondent and the letter bearing No. 74/EI/C/S/2019 dated 21.02.2019 on the file of the Eighth Respondent and consequentially direct the First to Eighth Respondents to demolish the unauthorized construction of the Ninth Respondent at Billroth Hospital, Door Nos. 38 – 43, Lakshmi Talkies Road, Shenoy Nagar, comprised in Survey Nos. 30, 31, 32, 35, 36, 37 and 39 of Aminjikarai Village, Chennai. Along with the Writ Petition, the Petitioner has filed W.M.P. No. 14266 of 2019 seeking to direct the First to Eighth Respondents to lock and seal the authorized construction at the Ninth Respondent/Hospital, W.M.P. No. 14277 of 2019 seeking for interim direction to the Seventh and Eight Respondents to disconnect the electricity service connection in the unauthorized construction at the Ninth Respondent/Hospital and W.M.P. No. 14268 of 2019 seeking to appoint an Advocate Commissioner to inspect and ascertain the violations in the unauthorized construction at the Ninth Respondent/Hospital. It is seen from the proceedings on 09.05.2019 that Mr. R. Govindasamy, Learned Special Government Pleader has taken notice for the First to Third Respondents, Mr. P.S. Ganesh, Learned Counsel has taken notice for the Fourth Respondent, Mr. G. Anantharangan, Learned Counsel has

taken notice for the Fifth Respondent, Mr. K.V. Sanjeev Kumar, Learned Counsel has taken notice for the Ninth Respondent in the aforesaid Writ Petition and Notice has been ordered to the Sixth to Eighth Respondents and the Tenth Respondent was impleaded.

4. After hearing the aforesaid Counsel appearing for the respective parties, this Court in the order dated 09.05.2019, had issued certain directions, which are extracted below:-

“13. Considering the facts and circumstances of the case, we direct the Electricity Authority to disconnect the electricity beyond the 3rd Floor. Keeping in mind the fact that the patients' interest should be safeguarded, we direct the Electricity Department to disconnect the electricity by 31.05.2019. Since the construction beyond 3rd Floor is illegal, the Ninth Respondent is restrained from admitting patients beyond 3rd Floor, till the disposal of the Writ Petition. We expect the authorities to act in accordance with law honestly and perform the statutory obligations and they shall also prove their honesty and integrity in removing the structure

beyond 3rd Floor without disturbing the patients, more so, after 30.05.2019. The Ninth Respondent must endeavour to shift the patients, who are not in a serious condition in the hospital before 30.05.2019, as the Electricity will be disconnected on 31.05.2019.

....

16. In order to give finality to the issue, we appoint Mr. T. Mohan, Advocate (Mobile Nos.8056100357/9444454309), 368, New Additional Law Chamber, High Court Building, Chennai, as an Amicus Curiae in this matter, who shall inspect the spot and submit a detailed report. It is needless to say that beyond the permissible Floor, the concerned Officials shall remove all the doors, windows, glasses, toilet seats and bidets, etc., between 31.05.2019 and 02.06.2019 in respect of violated Floors. Beyond 3rd Floor, it should be made as an unusable one. In any event, it shall be demolished without causing any disturbance to the Patients admitted upto the 3rd Floor and periodical inspection shall have to be conducted by the Amicus Curiae to ensure that the Floors beyond 3rd is not clandestinely used by the Ninth Respondent. The Amicus

Curiae, if available, shall be present on the days of removal and the Principal Secretary / Member Secretary of CMDA, who passed the impugned order dated 25.02.2019, shall supervise the demolition process and also arrange to take photograph and videograph of the same and furnish such details to this Court on the next date of hearing.

....

18. List this matter on 24.06.2019 for filing status report as well as counter by the respondents. In the meanwhile, the Ninth Respondent shall also produce the particulars of the patients, who are admitted and discharged as on date beyond the permissible limit."

5. In the common affidavit filed on behalf of the Ninth Respondent in support of W.M.P. Nos. 14686 and 14687 of 2019, it has been contended that due to short notice, the Ninth Respondent was not in a position then to file Counter Affidavit with supporting documents and in such circumstances, taking into consideration the additional materials now placed by the Ninth Respondent, the order passed by this Court on 09.05.2019 may be vacated and the Official Respondents may be directed not to take any coercive steps against the Ninth Respondent pursuant to that order.

6. Elaborating the submissions in that regard, Mr. C. Aryama Sundaram and Mr. AR. L. Sundaresan, Learned Senior Counsel appearing for the Ninth Respondent contended:

- (i) that the aforesaid order dated 09.05.2019 passed by this Court is in the nature of interim mandatory injunction which could not have been passed in the absence of any Counter Affidavit by the affected party, viz., the Ninth Respondent;
- (ii) that it had been proceeded in that order dated 09.05.2019 on the basis of the property tax assessment for the Fourth to Eighth Floors had taken commencement only from the year 2009, from which had been inferred that those Floors were not in existence as on 01.07.2007 in order to derive the benefits of G.O. (Ms). Nos. 110 and 111, Housing and Urban Development [UD4(3)] Department dated 22.06.2017 issued by the Government of Tamil Nadu for regularization of the unauthorized constructions;
- (iii) that it would be evident from the proceedings in letter No. C3/20879/2006 dated 15.11.2006 issued by the Member

Secretary, Chennai Metropolitan Development Authority, rejecting the proposal for planning permission that the Fourth to Eighth Floors in the building of the Ninth Respondent were already in existence as on 01.07.2007 in order to be entitled to the benefits of G.O. (Ms). Nos. 110 and 111, Housing and Urban Development [UD4(3)] Department dated 22.06.2017;

- (iv) that the Ninth Respondent had made application for regularization to the Fourth Respondent in receipt No. CMDA/Reg-113C/1037/2019 dated 18.02.2019, which is under process, but no final decision thereon could be taken without the leave of the Court in view of the interim order dated 11.09.2017 in W.P. No. 23889 of 2017 passed by the First Bench of this Court;
- (v) that in view of the pendency of the application for regularization, the Ninth Respondent has to be treated on par with similarly placed persons so as to use the Fourth to Eighth Floors till final decision is taken on the application for regularization.

7. In response to the query raised by this Court, Mr. S.R. Rajagopal, Learned Additional Advocate General appearing on behalf of the First to Third and the Sixth to Eighth Respondents submitted that though the proposal for planning permission for the Fourth to Eighth Floors of the building made by the Ninth Respondent had been rejected by the Fourth Respondent by proceedings in letter No. C3/20879/2006 dated 15.11.2006, the Official Respondents were not in a position to take any action for demolition of the illegal structures in view of the Ordinances promulgated each year by the Government of the Tamil Nadu from 2007 to 2012 and the subsequent introduction of Section 113-C in the Town and Country Planning Act, 1971, which confers powers on the State Government to exempt buildings from the compliance of statutory requirements and the consequential Governmental Orders in G.O. (Ms). Nos. 234 and 235, Housing and Urban Development Department dated 30.10.2012 issued by the Government of Tamil Nadu and the subsequent judicial proceedings that arose, which has now resulted in issuance of G.O. (Ms). Nos. 110 and 111, Housing and Urban Development [UD4(3)] Department dated 22.06.2017. It is further informed that in pursuance of the interim order dated 11.09.2017 in W.P. No. 23889 of 2017 filed challenging G.O. (Ms).

Nos. 110 and 111, Housing and Urban Development Department [UD4(3)] Department dated 22.06.2017, applications for regularization have been entertained and processed, but no final decision has been taken awaiting further orders of this Court and that one such application dated 18.02.2019 has been made by the Ninth Respondent for regularization of the unauthorized constructions in that building. Mr. P.S. Ganesh, Learned Counsel appearing for the Fourth Respondent and Mr. V.C. Selvasekaran, Learned Counsel appearing for the Fifth Respondent have adopted the submissions made by the Learned Additional Advocate General.

8. Mr. N. Manokaran, Learned Counsel appearing for the Petitioner strenuously urged that the materials sought to be now produced by the Ninth Respondent would not suffice to take a different view from the earlier finding of this Court that the Fourth to Eighth Floors in the building had come into existence only after 01.07.2007 and as such, the Ninth Respondent would not be entitled to the benefits of regularization extended in G.O. (Ms). Nos. 110 and 111, Housing and Urban Development [UD4(3)] Department dated 22.06.2017 and that the letter No. C3/20879/2006 dated 15.11.2006 issued by the Fourth Respondent rejecting the proposal for planning permission for the building comprising of Ground + Seven Floors would clinchingly establish that the building of

the Ninth Respondent is an unauthorized construction and no exception could be taken to the directions issued by this Court in the order dated 09.05.2019 directing immediate measures to be taken to cease the use of the Fourth to Eighth Floors of that building and start the demolition of those illegal portions after 31.05.2019.

9. The factual position that emerges from the aforesaid submissions made by the respective Counsel, viz-a-viz, the materials placed on record, is as follows:-

- (i) The proposal submitted by the Ninth Respondent for the planning permission to the Fourth Respondent on 12.10.2006 for regularization of deviated and unauthorized construction of Basement Floor + Ground Floor + Seven Floors of the Hospital building, was found to be in violation of the Special Rules for multi storeyed building under Rule 17(a) of the Development Control Rules. Accordingly, the planning permission was refused by proceedings No. C3/20879/2006 dated 15.11.2006, observing as follows:-

Sl. No.	Rule	Description	Required/ Permissible	Provided/ Available	Remarks
1	17(a)1(b)	Abutting road with	18.0 m	12.20 m	Less by 5.80 m
2	17(a)3(b)	Clear set back alround North South East West	8.0 m 8.0 m 8.0 m 8.0 m	1.40 m 5.95 m 0.90 m 4.50 m	
3	17(a)2	Plot coverage	50%	53.26%	Excess by 3.26% (MSB is not permissible)
4	17(a)2	Floor space index	1.50	4.92	Excess by 3.42 MSB is not permissible
5	17(a)7(a)	Height of basement above ground level	0.91 m	0.60 m	Less by 0.31 m
6	17(a)5(a)	Car Parking Two Wheeler parking	62 Nos. 102 Nos.	16 Nos. Nil	Less by 46 Nos. Less by 102 Nos.
7	17(a)6	Corridor width	2.40 m	1.83 m	Less by 0.57 m
8	17(a)9(b) (iii)	Electrical room	4 Nos.	1 No.	Less by 3 Nos.
9	The site under reference lies in partly Primary Residential use and partly in Mixed Residential use zone wherein Hospital is not permissible.				
Following are the discrepancies:-					
(i) Plan does not reflect as on site condition.					
(ii) Transformer room violates set back.					
(iii) Lightening arrester is not shown in the section and elevation plan.					
(iv) Fire safety and protections are not incorporated in the plans.					
(v) Solar system is not show in the terrace Floor for hospital.					

- (ii) The Ninth Respondent had preferred appeal against the aforesaid refusal of planning permission and the Appellate Authority had rejected the same as admitted by the Ninth Respondent in para 13 of his affidavit, though specific details and documents in that regard have not been produced.
- (iii) The Fourth to Eighth Floors of the building construction was assessed to property tax in the year 2009 with retrospective effect from October 2007.
- (iv) In response to the information sought by the Petitioner, the Electrical Inspector, Chennai South Division had stated by letter No. 74/Me.A/Ch/The/2019 dated 21.02.2019 that the Ninth Respondent had been issued license to operate the lift only upto the Third Floor from 16.04.2012 and renewed upto 15.04.2019, as approved by the Fourth Respondent.
- (v) In response to the information sought by the Petitioner, the Fourth Respondent by letter No. EC/N1/18500/2018 dated 25.02.2019 informed the Petitioner that planning permission for

the building of the Ninth Respondent had been granted vide proceedings PPA No. B3/36932/2003 consisting of Basement Floor + Ground Floor + First to Third floors, but the building now consists of Basement Floor + Ground floor + First to Seventh Floors + Eighth Floor part with a/c sheet roof. It was further informed that pursuant to the petition dated 09.10.2018 made by the Petitioner, the site was inspected and on noticing the deviations, the Fourth Respondent issued Notice No. A 1930 dated 25.01.2019 calling for approved plan from the Ninth Respondent. In response to the same, the Ninth Respondent by letter dated 18.02.2019 submitted a copy of the approved plan (till Third Floor) and also enclosed acknowledgment for having applied for regularization of the building in receipt No. CMDA/Reg-113C/1037/2019 dated 18.02.2019 under Section 113-C of the Tamil Nadu Town and Country Planning Act, 1971, and that the said application for regularization is under consideration.

10. In this backdrop, after considering the rival submissions made by the Learned Counsel for the respective parties, the core questions that now arise for determination are as follows:-

- (i) Whether the directions issued by this Court in the order dated 09.05.2019 for immediate cessation of the use of the Fourth to Eighth Floors of the building of the Ninth Respondent require to be vacated?
- (ii) Whether the directions issued by this Court in the order dated 09.05.2019 for demolition of the fourth to eight Floors of the building of the Ninth Respondent after 31.05.2019 require to be deferred till the disposal of the application dated 18.02.2019 for regularization made by the Ninth Respondent under G.O. (Ms). Nos. 110 and 111, Housing and Urban Development [UD4(3)] Department dated 22.06.2017?

11. On the first question, it is without any pale doubt that the construction of the Fourth to Eighth Floors in the building by the Ninth Respondent is unauthorized as the planning permission for the same had been rejected as early as 15.11.2006 itself by the Fourth Respondent. The legal position as to whether the building which has been constructed unauthorizedly could be used or occupied pending consideration of

application for regularization has been considered by the First Bench of this Court and answered in negative in the decision in **P.A. Rani -vs- K.G. Krishnan** [AIR 1994 Madras 323], cited by the Learned Amicus Curiae, Mr. T. Mohan, and the relevant portions in that regard are extracted below:-

“11. The next point for consideration is, whether the appellant in W.A. No. 425 of 1994, who claims to be the lessee, should be permitted to occupy the first, second and third Floors of the building, pending decision on the application filed for permission by the owner. We have recorded a finding on point No. (i) that the building is an unauthorised one. Of course, the penal provisions of the Act for contravention of Sections 48, 49 and 56 do provide for penalty. The question to be decided is as to whether the fact that there is a penal provision for contravention of some of the provisions of the Act, by itself be a ground for the court to permit the unauthorised construction to be used as though it is constructed with authority. One of the objects of the Act is to ensure development of the city in accordance

with the Master Plan, therefore, Section 48 specifically provides that no construction activity whatsoever shall be taken up in the area covered by the Master Plan from the date of its publication without the written permission of the appropriate planning authority. If the object of the Act is to be achieved and a proper implementation of the same is to be ensured, permitting the owner/lessee to occupy the unauthorised construction cannot be considered to be consistent or in conformity with the object and ensuring proper implementation of the provisions of the Act. If such an unauthorised construction is permitted to be occupied, every owner of a land would with impunity put up construction without obtaining permission and whenever action is taken, he would apply for permission with the result, the very object of the provisions contained in Section 48 of the Act would be defeated. Any such interpretation which gives rise to such a situation and thereby defeats the very purpose of the Act, should be avoided as it would undermine the provisions, and the object, of the Act. In these circumstances, we are of the view that the unauthorised

construction should not be permitted to the occupied, pending consideration application for permission re-submitted by the owner. This will at least deter owners of lands not to take up any development activity on the land without the written permission from the Planning Authority. Normally, in such enactments, there will be a provision that, if the result of such an application is not communicated within the prescribed period, the permission sought for must be deemed to have been granted, but the Act in question does not contain any such provision. It only shows that the Legislature intended that the provisions of the Act should be strictly adhered to and no construction should be put up without the written permission. The intendment and the object of the Act can be ensured only by directing that the unauthorised construction should not be occupied until the application seeking permission filed for permission is considered.”

It cannot be lost sight of the fact that the building in question in this case is a Hospital where there is regular access by public in the form of

patients and their attendants visiting that premises apart from the Doctors, Nurses and other employees, whose safety is paramount and cannot be compromised at any cost. Inasmuch as the higher levels of the Fourth to Eighth Floors from the ground floor have to be accessed mainly by using the lift, it would be totally opposed to public safety to operate the lift to those Floors without any permission from the concerned authority for the same. As held by the Hon'ble Supreme Court of India in ***C. Albert Morris -vs- K. Chandrasekaran*** [(2006) 1 SCC 228], a right in law exists only and only when it has a lawful origin, and as such, the fortitious circumstance that the Ninth Respondent has been using the unauthorized constructions in the building for more than a decade unnoticed and without any interference, cannot be of any avail. In the teeth of the aforesaid binding ruling of this Court and imminent danger to public safety, we are of the considered view that it would absolutely illegal and against public interest to continue to permit the Ninth Respondent to use the unauthorized construction under the guise of pendency of the application for regularization and we do not find any acceptable reason to vacate the directions issued by this Court to cease operations in the Fourth to Eighth Floors of the building of the Ninth Respondent by way of locking and sealing the premises and restraining admission of the patients

beyond the Third Floor and shifting the patients in those Floors by 30.05.2019 and disconnecting the electricity supply to those Floors by 31.05.2019 and removing all the doors, windows, glasses, toilet seats and bidets between 31.05.2019 and 02.06.2019 so that those unauthorized constructions in the building is not clandestinely used by the Ninth Respondent.

12. Coming to the next question as to whether the demolition of the Fourth to Eighth Floors of the building of the Ninth Respondent, which has been constructed unauthorizedly has to be deferred till a final decision is taken on the application made by the Respondent for regularization under the Governmental Orders issued in pursuance of Section 113-C of the Tamil Nadu Town and Country Planning Act, 1971, it has to be highlighted at the outset that such benefit could be considered only if the construction of the building had been completed before 01.07.2007 and the application for regularization had been made within six months from the date of notification of G.O. (Ms). Nos. 110 and 111, Housing and Urban Development [UD4(3)] Department dated 22.06.2017, as mentioned therein.

13. In the order dated 09.05.2019, the Learned Judges had arrived at the factual finding that there was no construction beyond the Third Floor in existence prior to 23.07.2009 when property tax was assessed and as such, the benefit of regularization under G.O. (Ms). Nos. 110 and 111, Housing and Urban Development [UD4(3)] Department dated 22.06.2017 would not enure to the Ninth Respondent. After passing of that order, the Ninth Respondent has produced the property tax demand card, which clearly shows that property tax has been paid for the building only from October 2007 onwards, which obviously would not improve the case of the Ninth Respondent to show that the Fourth to Eighth Floors was in existence as on 01.07.2007. Another document relied by the Ninth Respondent to show that the Fourth to Eighth Floors was in existence as on 01.07.2007 is the proceedings in letter No. C3/20879/2006 dated 15.11.2006 issued by the Fourth Respondent rejecting the proposal of the Ninth Respondent for planning permission. The said order nowhere refers to the completion of the building at the time when that order was passed and at best, it could be taken as evidence that construction was taking place at that point of time. The last document relied by the Ninth Respondent is the advertisement said to have been published in the

newspapers regarding the inaugural function on 23.04.2007 and on a perusal of the photocopy of the same, we do not find anything therein to indicate the name of the newspaper in which it was published or the place where the inaugural function for the State of the Art equipments and the super speciality divisions of the Ninth Respondent was proposed to be launched on that day inasmuch as even according to the Ninth Respondent, it has two other buildings in the same premises at Shenoy Nagar in Chennai apart from another Hospital at R.A. Puram in Chennai, which are mentioned in that advertisement. In any event, this Court in the exercise of discretionary powers under Article 226 of the Constitution, cannot venture into the realm of appreciating the evidence for ascertaining the date on which the Fourth to Eighth Floors of the building of the Ninth Respondent had been completed. As such, we do not propose to express any view on this aspect except to record at this stage that the materials placed before this Court do not inspire confidence to believe that the construction of the Fourth to Eighth Floors had been completed as on 01.07.2007 for the purpose of the Ninth Respondent to be eligible to apply for regularization of the same.

14. It is also apparent on the face of the record that after the rejection of the appeal by the Appellate Authority confirming the refusal to grant planning permission for the proposal to construct the Fourth to Eighth Floors of the building of the Ninth Respondent in proceedings No. C3/20879/2006 dated 15.11.2006 by the Fourth Respondent, the Ninth Respondent had not taken any effort thereafter to bring the deviated and unauthorized constructions in conformity with the applicable building regulations, and the First to Eighth Respondents had also not taken any measures to prevent the Ninth Respondent from using and occupying the unauthorized construction and to demolish the same. It is also evident that the Ninth Respondent had not made any application for regularization in G.O. (Ms). Nos. 110 and 111, Housing and Urban Development [UD4(3)] Department dated 22.06.2017 within six months from the date of notification as required therein. It was only after the Petitioner had required the Fourth Respondent to inform whether the construction of the building of the Ninth Respondent had been approved, Notice No. A 1930 dated 25.01.2019 was issued by the Fourth Respondent to the Ninth Respondent, an on-line application for regularization of the building under Section 113-C of the Tamil Nadu Town and Country Planning Act, 1971, was made on 18.02.2019 by the Ninth Respondent. In response to our specific query as to how the application for regularization

could have been made after the lapse of six months from the date of issue of the notification in G.O. (Ms). Nos. 110 and 111, Housing and Urban Development [UD4(3)] Department dated 22.06.2017 as mentioned therein, the Learned Senior Counsel appearing for the Ninth Respondent as well as the Learned Additional Advocate General submitted that time had been extended till 21.06.2019 for the same, but we do not find any such extension provided from the materials placed before us. Be that as it may, it is apparent that the Ninth Respondent has not been prudent enough to even immediately avail the golden opportunity extended by the Government of Tamil Nadu to regularize unauthorized constructions under Section 113-C of the Tamil Nadu Town and Country Planning Act, 1971, by issuing G.O. (Ms). Nos. 110 and 111, Housing and Urban Development [UD4(3)] Department dated 22.06.2017 within the stiputed time and that the endeavour to submit that application only after the Petitioner started to make enquiries in that regard with the Fourth Respondent would clearly go to show that the conduct of the Ninth Respondent is not *bonafide*. We are fortified in taking this view by the decision of the First Bench of this Court in ***Consumer Action Group -vs- State of Tamil Nadu*** [(2006) 4 CTC 483] in which it has been observed as follows:-

“26. The catena of decisions referred to above unwaveringly show that the word “environment” is of broad spectrum which brings within its ambit hygienic atmosphere and ecological balance. It is, therefore, not only the duty of the State, but also the duty of every citizen to maintain hygienic environment. There is constitutional obligation on the State Government and the Municipalities, not only to ensure and safeguard proper environment, but also an imperative duty to take adequate measures to promote, protect and improve both man-made and natural environment. The Municipal Laws regulating the building construction activities have been enacted to achieve a larger purpose of public health, safety and general welfare. Any violation of zoning and regulation laws, takes a toll in terms of public welfare and convenience being sacrificed apart from the risk, inconvenience and hardship which is posed to the occupants of the building. Though Municipal Laws permit deviation from sanctioned constructions being regularised by compounding but that is by way of exception. Only such deviations deserve to be

condoned as are bona fide or are attributable to some misunderstanding or are such deviations as where the benefit gained by demolition would be far less than the disadvantage suffered. Other than these, deliberate deviations do not deserve to be condoned and compounded. At the time of planning, experts in the field of town planning take into account various aspects, such as, healthy living, environment, lung space need, land use intensity, areas where the residential houses are to be built and where the commercial buildings are to be located, the need of household industries, etc. Regularising the constructions erected in violation of the regulations has serious consequences. Regularisation in many cases for the violation of the front setback, will not make it easily feasible for the Corporation to widen the abutting road in future and bring the incumbent closer to the danger of the road. The waiver of requirement of side set back will deprive adjacent buildings and their occupants of light and air and also make it impossible for a fire engine to be used to fight fire in a high-rise building. The violation of the floor space index, will result in undue strain on the civil amenities such

as water, electricity, sewage collection and disposal. The waiver of requirements regarding fire stair case and other fire prevention and fire fighting measures would seriously endanger the occupants resulting in the building becoming a very veritable death trap. The waiver of car parking and abutting road width requirements would inevitably lead to congestion on public roads causing severe inconvenience to the public at large. Such grant of exemption and the regularisation is likely to spell ruin for any city as it affects the lives, health, safety and convenience of all its citizens. The Court cannot remain a mute spectator when the violations also affect the environment and healthy living of law-abiders. If the laws are not enforced and the orders of the Court to enforce and implement the laws are ignored, the result can only be total lawlessness.”

15. Having regard to the aforesaid findings on the two crucial aspects as to the date of completion of the unauthorized construction as on 01.07.2007 as well as the failure to submit the application for regularization immediately within the time frame initially provided under

the Governmental Orders, it necessarily gives to the inference that the plea to await the outcome of application for regularization is only a desperate bid to somehow protract the eventual demolition of the unauthorized construction so as to enjoy the illegal gains indefinitely at the risk of public safety, which cannot be countenanced. In that view of the matter, we are convinced that there is no justification to defer the demolition of the Fourth to Eighth Floors of the building of the Ninth Respondent under that pretext. Resultantly, we hold that the order dated 09.05.2019 passed by this Court does not require any variation and has to be implemented in its entirety.

16. The Learned Senior Counsel appearing for the Ninth Respondent submitted that due to limited availability of time, the Ninth Respondent is not in a position to arrange for alternative accommodation for shifting the patients being treated to some other Hospital as well as the medical equipments that have been installed and having regard to the said request made, we reluctantly extend time for disconnecting electricity supply to the Fourth to Eighth Floors of the building of the Ninth Respondent till 15.06.2019. It is made clear that the Ninth Respondent shall not be entitled to admit any new patients in the said Floors misusing

such indulgence shown by this Court. The process of demolition of the building shall accordingly commence from 16.06.2019 onwards under the supervision of Mr. T. Mohan, Amicus Curiae appointed by this Court in the order dated 09.05.2019 and a status report shall be filed along with photographs and videographs of the same and such other particulars, as directed in the manner indicated by this Court in the order dated 09.05.2019.

17. In the result, W.M.P. Nos. 14686 and 14687 of 2019 are dismissed as without merits.

18. As directed in the order dated 09.05.2019, post W.P. No. 14210 of 2019 on 24.06.2019 for further orders.

(RMT. TEEKA RAMAN, J.) (P.D. AUDIKESAVALU, J.)

28.05.2019

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Note: Issue order copy on 28.05.2019.

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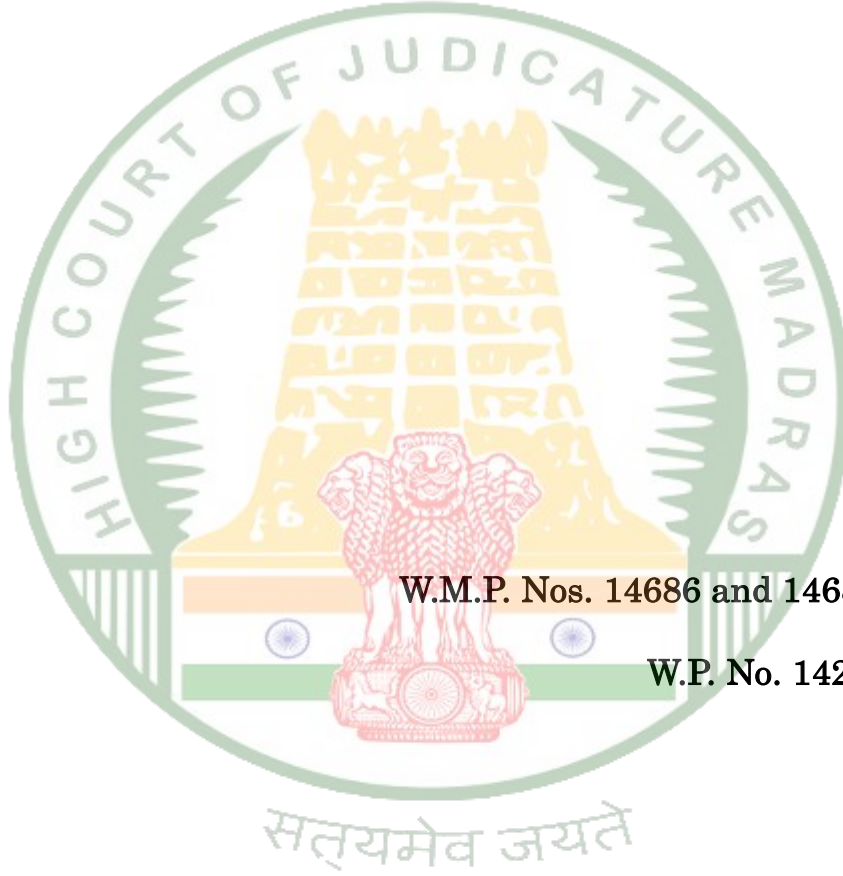
The Amicus Curiae,
Mr. T. Mohan,
Advocate,
Madras High Court.



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**RMT. TEEKA RAMAN, J.
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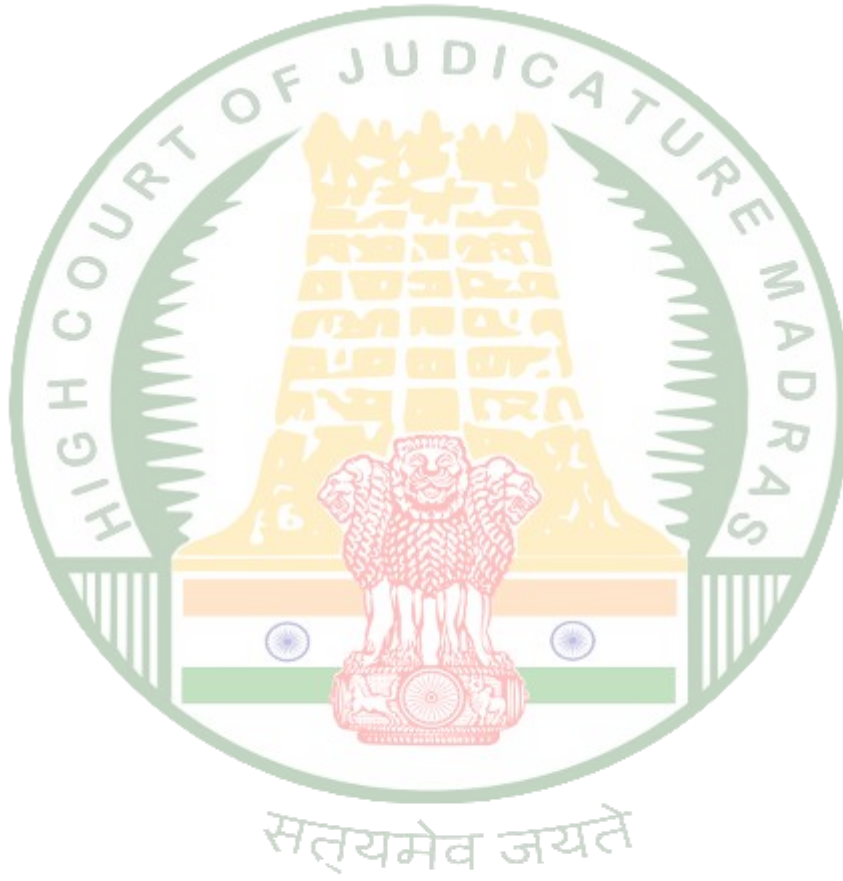


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