



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P.No.8844 of 2021

and

W.M.P.Nos.9380 and 9381 of 2021

S.S.Jayanthakumar (died)

2. J.Ashwinkumar

3. SMT. Cassia Jemima

(P.2 and P.3 substituted as LRs of deceased
sole petitioner vide order dated 31.08.2021
made in WMP No.18668/2021)

...Petitioners

Vs.

1. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irvin Road,
Egmore, Chennai - 600 008.

2. The Commissioner,
Greater Chennai Corporation,
Rippon Building, Chennai - 600 003.

3. The Zonal Executive Engineer (Zone-XIV),
No.6/64, Puzhuthivakkam Main Road,
Chennai - 600 100.

4. Gomathi Vanchesan

5. A.Kamalkassan

6. The Government of Tamil Nadu,
rep. by its Secretary,
Housing and Urban Development Department,
Fort St. George, Chennai.
(R6 suo motu implied vide order dated 09.04.2021)

...Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing 1 to 3 respondents herein to inspect the property in Survey No.580/19, Plot No.19, 2nd Street, Arumugam Nagar, IIT Colony, Pallikaranai, Chennai - 600 100 and to take necessary enforcement action as contemplated under Tamil Nadu Town and Country Planning Act, 1971, for the unauthorised construction carried out by 4th and 5th respondents, violating the order dated 23.03.2020, passed by Additional Secretary, Housing and Urban Development Department.

For petitioner : Mr.C.Johnson
For respondents : Mr.P.Veenasuresh
Standing Counsel (for R1)
Mr.Raja Shrinivas
Standing Counsel (for R2 & R3)
Mr.T.N.C.Kaushik
Govt. Counsel (for R6)
Mr.Rahul Jaganathan (for R4)
Mr.G.Thalaimutharasu (for R5)

ORDER

(The Order of the Court was made by K.KALYANASUNDARAM,J)

This writ petition has been filed seeking for issuance of a Writ of Mandamus directing respondents 1 to 3 herein to inspect the property in Survey No.580/19, Plot No.19, 2nd Street, Arumugam Nagar, IIT Colony, Pallikaranai, Chennai - 600 100 and to take necessary enforcement action as contemplated under Tamil Nadu Town and Country Planning Act, 1971, for the unauthorised construction carried out by 4th and 5th respondents, violating the order dated 23.03.2020, passed by Additional Secretary, Housing and Urban Development Department.

2.The petitioner would claim that he is the absolute owner of the property comprised in survey No.580/20, Plot No.20, 2nd street, Arumugam Nagar, IIT Colony, Pallikaranai, Chennai - 600 100 measuring to an extent of 3600 square feet. The fourth respondent Gomathi is the owner of the property in Plot No.19. The grievance of the petitioner is that the fifth respondent, who is the promoter of the property, is constructing a building in violation of the approved plan.

3.Perusal of the records reveal that the respondents 2 and 3 issued lock and seal notice having found that the build was constructed against the approved plan. The fifth respondent preferred an appeal before the Government. The Additional Secretary, Tamil Nadu Housing and Urban Development Department



(Technical) vide order dated 23.03.2020 has disposed of the appeal directing the fifth respondent to rectify the defect within a period of three months. The order of the secretary is enclosed at page No.33 of the typed set. It is the grievance of the petitioner that despite the order of the Government dated 23.03.2020, the fifth respondent is putting up further construction without any authorization.

4.The learned counsel appearing for the fourth respondent would state that as per the agreement between the respondents 4 and 5, the fifth respondent has to construct only 5 Flats, but now he has put up 8 Flats in violation of the approved plan. According to the learned counsel, unless the entire building is demolished, there is no scope to bring the building within the approved plan.

5.The learned counsel appearing for the fifth respondent would state that subsequent to the disposal of the appeal on 23.03.2020, lock down was imposed in view of the pandemic and hence, the fifth respondent could not rectify the defects. The learned counsel by drawing the attention of this Court to an affidavit of the fifth respondent, would state that the entire defects would be rectified, if he is granted 8 months time. The affidavit of the fifth respondent is placed on record.

6. We have heard the learned counsel appearing for the parties and perused the materials available on records.

7.Considering the facts and circumstances of the case, six months time is granted to the fifth respondent to rectify the defects. If the defects are not rectified within above said time, the respondents 1 to 3 shall take appropriate action against the unauthorised construction put up by the fifth respondent, in accordance with law.

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

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

skn



To

1. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irvin Road,
Egmore, Chennai - 600 008.
2. The Commissioner,
Greater Chennai Corporation,
Rippon Building, Chennai - 600 003.
3. The Zonal Executive Engineer (Zone-XIV),
No.6/64, Puzhuthivakkam Main Road,
Chennai - 600 100.
4. The Government of Tamil Nadu,
rep. by its Secretary,
Housing and Urban Development Department,
Fort St. George, Chennai.

+1CC to M/s.P.Veena Suresh, Advocate, Sr.No.46699
+1CC to Mr.Thalaimutharasu, Advocate, Sr.No.46975
+1CC to Mr.K.Rajashrinivasan, Advocate, Sr.No.46978
+1CC to Mr.C.Johnson, Advocate, Sr.No.46767
+1CC to the Government Pleader, Sr.No.47185

W.P.No.8844 of 2021
and

W.M.P.Nos.9380 and 9381 of 2021

PL (CO)
K.RK. (05.10.2021)