

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 01.03.2021
CORAM
THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN
WP.No.15979/2020 & WMP.Nos.19889 & 21964/2020

M/s.Sri Venkatesha Farm Fruits
Running Kovai Pazhamudir Nilayam
Thiruvannamiyur Branch
rep.by its Partner
Plot No.1, Old No.120, New No.11
Canal Road, Thiruvannamiyur
Chennai 600 041.

... Petitioner

Versus

- 1.The Government of Tamil Nadu
rep.by its Secretary,
Housing & Urban Development Department
Fort St George, Secretariat
Chennai 600 009.
- 2.Greater Chennai Corporation,
rep.by its Commissioner
Ripon Building
Poonamallee High Road,
Chennai 600 003.
- 3.The Executive Engineer
Greater Chennai Corporation,
Zone 13, LB Road, Adyar, Chennai 600 020.
- 4.The Assistant Executive Engineer
Greater Chennai Corporation,
Unit 39, Velacherry
Chennai 600042.
- 5.The Assistant Engineer
Greater Chennai Corporation,
Division 180 Thiruvannamiyur
Chennai 600 041.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the respondents 3 to 5 relating to De-occupation notice in Letter No.DN.180/002/2020 dated 29.10.2020 and quash the same and consequently direct the 1st respondent herein to consider the revision petition dated 22.10.2020 filed u/s.80[1] and stay application u/s.80[3] of the Town and Country Planning Act, 1971.

For Petitioner : Mr.K.Doraisamy
Senior Counsel assisted by
M/s.Muthumani Doraisamy

For R1 : Mr.R.Vijayakumar
Additional Government Pleader

For R2 to R5 : Mr.M.Ganesan
Standing counsel

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

- (1) By consent, the writ petition is taken up for final disposal and is disposed of by this order.
- (2) The petitioner being the tenant under the 5th respondent, makes a challenge to the impugned De-Occupation Notice dated 29.10.2020 issued by respondents 3 and 4.
- (3) This Court, in series of orders, had taken note of the submission made by Mr.K.Doraisamy, learned Senior counsel appearing for the petitioner as to the demolition of the unauthorised construction.
- (4) When the matter is listed today, the learned standing counsel appearing for respondents 3 to 5 has filed a Status Report dated 21.02.2021 and has also drawn the attention of this Court to the Inspection Report with photographs.
- (5) A perusal of the Status Report would disclose among other things that the deviated structures existing, have been removed and only minor deviations were found and the same were of the permissible under Annexure XXIII Rule 20[6] of the Tamil Nadu Combined Development and Building Rules, 2019 and in the light of the same, the petitioner had got the superstructure within the parameters of the negligible limits.
- (6) It is relevant to extract the Tabular column given in paragraph No.6 of the said Status Report:-

S.No	Description	As per revised plan	As per site	Difference	Remarks
1	Set back				
	Front	1.64	1.90	Nil	
	Rear	1.50	1.25	0.25	Allowable minor deviation
	Side 1	1.50	1.75	Nil	-
	Side 2	1.52	1.52	Nil	-
2	Built up Area				
	Ground Floor	388.31	316.21	Nil	-

- (7)The learned Senior counsel appearing for the petitioner would submit that in the light of the said Status Report, nothing remains for further adjudication in this writ petition and however, would pray that the 5th respondent/landlord had submitted a revised plan application dated 12.11.2020 by paying the prescribed fees and it may be directed to be considered and disposed of.
- (8)The Court heard the submissions of Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the 1st respondent.
- (9)This Court, taking into consideration the above facts and circumstances, especially the Status Report dated 21.02.2021 submitted by the 3rd respondent, is of the considered view that nothing remains for further adjudication in this writ petition. However, it is open to the concerned official respondents to consider and dispose of the revised plan application dated 12.11.2020 submitted by the 5th respondent/landlord, if the papers are otherwise in order and complete the said exercise as expeditiously as possible and not later than ten weeks from the date of receipt of a copy of this order/uploading of the order in the website and communicate the result, to the 5th respondent/landlord.
- (10)The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

AP
To

- 1.The Secretary, Government of Tamil Nadu
Housing & Urban Development Department
Fort St George, Secretariat
Chennai 600 009.
- 2.The Commissioner
Greater Chennai Corporation,
Ripon Building
Poonamallee High Road,
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- 3.The Executive Engineer
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- 4.The Assistant Executive Engineer
Greater Chennai Corporation,
Unit 39, Velacherry
Chennai 600 042.

5.The Assistant Engineer
Greater Chennai Corporation,
Division 180 Thiruvanniyur
Chennai 600 041.

+1cc to M/s.Muthumani Doraisamy , Advocate SR.No. 12652
WP.No.15979/2020

A.SK(23.03.2021)



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