



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) No.8026 of 2021
(Through Video Conference)

WEB COPY

G.Shanmugasundar

...Petitioner

Vs.

- 1) The Chair Person,
Tamil Nadu Real State
Regulatory Authority (TNRERA),
No.1A, 1st Floor, Gandhi Irwin Bridge Road,
Egmore, Chennai 600 008
- 2) The Commissioner,
Tiruchirappalli Municipal Corporation, Trichy.
- 3) The Assistant Commissioner,
K.Abishekapuram Zone,
Tiruchirappalli Municipal Corporation, Trichy.
- 4) Chendur Homes Pvt Ltd.,
Rep. by its Managing Director,
T.D.Rajha, Having Registered Officer at
No.4G, 1 Block, Shyamala Garden,
136, Arcot Road,
Saligramam, Chennai 600 093.

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 1st respondent herein to take appropriate action against the 4th respondent herein as contemplated under the Real Estate (Regulation and Development) Act, 2016 within a stipulated time as fixed by this Court based on the petitioner's representations dated 04.08.2020 and 15.09.2020.

For Petitioner : Mr.T.Senthil Kumar
For Respondents : Mr.Saji Bino
For R2&R3

For Respondents 1&4: No Appearance

O R D E R

This Writ Petition has been filed for the issue of Writ of Mandamus directing the first respondent to act upon the representations made by the petitioner on 04.08.2020 and 15.09.2020 wherein the petitioner is seeking for taking action against the fourth respondent under the Real Estate (Regulation and Development) Act, 2016.



2. The case of the petitioner is that the subject property belonged to him and his brother. The property was partitioned and the petitioner was allotted 35.12 cents. The property that was allotted to the brother, under the partition, was handed over to the fourth respondent for developing the same and for putting up Flats and it was agreed that five Flats will be allotted in favour of the petitioner.

3. The grievance of the petitioner is that the fourth respondent completely deviated from the approved building permission and had even gone to the extent of encroaching upon the public road. The same resulted in demolition proceedings being initiated by the second respondent.

4. The petitioner approached this Court and filed a writ petition in W.P.(MD) No.1422 of 2020 to initiate action and to stop the illegal construction. The Division Bench by an order dated 04.03.2021 disposed of the Writ Petition and the relevant portions in the order is extracted hereunder:-

"5.If the illegal construction as directed to be demolished by the relevant order of March 2, 2018 has been demolished, the petitioner should have no further grievance. However, the petitioner says that the entire building may be at variance with the approved plan and the private respondents are seeking to have the illegal construction glossed over by preferring an appeal under Section 113 of the Tamil Nadu Town and Country Planning Act, 1971.

6. The order dated March 2, 2018 was on the basis that only the stilt floor had been illegally constructed. If there is any further deviation from the approved plan in course of the construction, regularisation thereof should not be routinely permitted, as the spirit of the order dated March 2, 2018 was that the relevant building should adhere to the approved plan.

7. Accordingly, W.P.(MD) No.1422 of 2020 is disposed of by directing the respondents, particularly the official respondents, to ensure that the proceedings under Section 113 of the Act of 1971 are disposed of as expeditiously as possible and in the light of the observations made herein. If any unauthorized construction is discovered, in the construction as completed till now, the respondent Corporation should take steps for further demolition thereof. If there are further grievances of the petitioner, they may be carried by way of a civil suit before the appropriate forum, particularly, against the respondents 9 and 10. The Corporation will only be duty bound to ensure that



allowed to stand. The application for regularization of the construction made should be carefully scrutinized by the appropriate officials."

5. Pursuant to the orders passed by the Hon'ble Division Bench, the petitioner had made representation before the first respondent seeking for action against the fourth respondent under the Real Estate (Regulation and Development) Act, 2016. Since the same was not acted upon, the present writ petition has been filed before this Court seeking for appropriate directions.

6. Heard Mr.T.Senthil Kumar, learned counsel for the petitioner and Mr.Saji Bino, learned counsel for the respondents.

7. Taking into consideration the facts and circumstances of the case and also the earlier order passed by this Court, there shall be a direction to the first respondent to deal with the representations made by the petitioner on 04.08.2020 and 15.09.2020 and act upon the same, strictly in accordance with law, after affording an opportunity to the petitioner and the fourth respondent, appropriate orders shall be passed within a period of eight (08) weeks from the date of receipt of a copy of this order.

8. The petitioner is directed to make a fresh representation to the first respondent along with all the relevant documents and also a copy of this order.

9. This Writ Petition is disposed of with the above directions. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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NOTE: *In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.*

To:

- 1) The Chair Person,
Tamil Nadu Real State
Regulatory Authority (TNRERA),
No.1A, 1st Floor, Gandhi Irwin Bridge Road,
Egmore, Chennai 600 008

<https://hcservices.ecourts.gov.in/hcservices/>



2) The Commissioner,
Tiruchirappalli Municipal Corporation,
Trichy.

3) The Assistant Commissioner,
K.Abishekapuram Zone,
Tiruchirappalli Municipal Corporation,
Trichy.

Order made in
W.P. (MD) No.8026 of 2021

Dated:
19.04.2021

RK (30.04.2021) 4P 4C