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W.P.No. 24001 of 2007

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2022

CORAM

The Hon'ble Mr. Justice **T. RAJA**
and
The Hon'ble Mr. Justice **K. KUMARESH BABU**

W.P.No. 24001 of 2007
and M.P. Nos. 1 and 2 of 2007

A.O.Joseph

.. Petitioner

Vs

1.The Chennai Metropolitan Development Authority,
Rep. By its Member Secretary,
No.1, Gandhi – Irwin Road,
Egmore, Chennai – 600 008.

2.St. Thomas Mount Panchayat Union,
Rep. By its Commissioner,
Chittlapakkam, Chennai – 600 064.

3.E.Suresh

4.E.P.Gopalakrishnan

(fourth respondent impleaded
vide order dated 07.07.2022
made in M.P.No.2 of 2010
in W.P.No.24001 of 2007)

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying to issue a writ of mandamus directing respondents 1 and 2 to



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initiate proceedings against the third respondent for putting up unauthorised construction put in Plot No.4 VGP Pushpa Nagar, Medavakkam, Chennai – 601 302 and to demolish the same in terms of the order made in Letter No.ES3/21141/06 dated 18.12.2006 issued by the first respondent.

For Petitioner : Mr.G.Ethirajulu
For Respondents : Mr.R.Thamaraiselvam for R1
Mr.K.Karthik Jaganathan,
Government Advocate for R2
Mr.N.S.Kishore Kumar for R3
Mr.J.James for R4
(impleaded respondent)

ORDER

(Order of the Court was made by *T.RAJA, J.*)

Seeking a direction to respondents 1 and 2 to initiate proceedings against the third respondent for putting up unauthorised construction in Plot No.4 VGP Pushpa Nagar, Medavakkam, Chennai – 601 302 and to demolish the same in terms of the order made in Letter No.ES3/21141/06 dated 18.12.2006 issued by the first respondent, the present writ petition has been filed.

2. Learned counsel for the petitioner submits that the petitioner is the absolute owner of the land and building and he is in possession



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and enjoyment of the same. The third respondent is the tenant under the fourth respondent, who purchased the vacant land on the rear side of the petitioner's house and started construction on the compound of the petitioner's land. Since the fourth respondent attempted to put up massive multi-storied building without even obtaining any planning permission and in contravention of the building plan and approval, complaint was given on 16.10.2006 to the first respondent. The first respondent also in his proceedings dated 18.12.2006 in Letter No.ES3/21141/06 issued a direction to the second respondent to inspect the building and also to take necessary action. In the meanwhile, the fourth respondent has raised the building upto the first floor. Despite several representations made by the petitioner, respondents 1 and 2 have not taken any action.

3. A detailed counter affidavit has been filed by the second respondent – Commissioner, St. Thomas Mount Panchayat Union stating that after getting approved plan copy of the said plot from the fourth respondent, necessary action will be taken. It is also stated in the counter that only due to shortage of staff and heavy work burden of CMDA, they were not able to proceed further. It is further stated that after obtaining explanation from respondents 3 and 4, necessary



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action will be taken by the CMDA.

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4. Though the fourth respondent has filed impleading petition in the year 2010 and notice was ordered in the year 2019, no counter affidavit has been filed till now.

5. We have perused the counter affidavit filed by the second respondent. Considering the stand taken by the second respondent in the counter affidavit, we hereby direct the second respondent to take suitable action by conducting enquiry, after issuing notice to the petitioner as well as the fourth respondent and after affording an opportunity of hearing to both of them, within a period of eight weeks from the date of receipt of a copy of this order.

6. With the above direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

(T.R., J) (K.B., J.)
07.07.2022

Index:Yes/No
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To

- 1.The Member Secretary,
Chennai Metropolitan Development Authority,
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- 2.The Commissioner,
St. Thomas Mount Panchayat Union,
Chittlapakkam, Chennai – 600 064.



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and
K. KUMARESH BABU.,J**

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