



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2022

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THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.10744 of 2022 and WMP.Nos.10390 and 10392 of 2022

M/s.Jain Housing
rep. by its Authorized Signatory
Chennaram Seni,
No.98/99, Habibullah Road,
T.Nagar, Chennai-600 017.

...Petitioner

-vs-

1. The State of Tamil Nadu,
Housing and Urban Development Department
rep. by its Principal Secretary to Government,
St. George Fort, Secretariat,
Chennai-600 009.
2. Chennai Metropolitan Development Authority
rep. by its Member Secretary,
Thalamuthu Natarajan Building,
No.1 Gandhi Irwin Road, Egmore,
Chennai-600 008.
3. Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO)
rep. by its Chairman,
144, Anna Salai, Chennai-600 002.
4. Jains Westminster Owners Welfare Association
Jains Westminster Complex,
Arunachalam Road, Saligramam,
Chennai-600 093.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Mandamus, directing the 1st respondent to consider the representation dated 24.03.2022 and consequently, dispose of the Appeal filed by the



consisting Combined Basement Floor + Ground Floor Residential Building with 613 dwelling units at T.S.No.80/1 to 12, 113/2, 3 & 4, Block No.38 of Arunachalam Road, Saligramam, Chennai - within the limit of Corporation of Chennai sanctioned in PP No.C/PP/MSB-IT/24 A to M/2011, Permit No.5960 in Letter No.C3/13667/2010 dated 17.05.2011. Finally, the Completion Certificate says that it was inspected and observed that the building has been completed as per the approved plan and satisfies the norms for issuance of the Completion Certificate approved by the Monitoring Committee. Therefore, after approving the multi-level car parking, the CMDA authorities have issued the impugned order dated 12.10.2018 stating that the petitioner has converted the Non-FSI area with the height of 2.75 m into Textile Showroom and other use with the height of 4.17 m.

4. Learned Counsel for the petitioner would also submit that the complaint made against the petitioner shows that usage conversion (Super market, educational institute, Sag Hair Fair and 3 shops) etc. and one another deviation has been recorded that usage conversion of entire floor with a height of 4.17m. Since the Completion Certificate has been granted to the petitioner, it is not open to them to issue the impugned lock and seal and demolition notice. Therefore, when the Completion Certificate was issued by the CMDA stating that the building-in-question has been completed as per the approved plan and satisfies the norms for issuance of the Completion Certificate approved by the Monitoring Committee, it is not known why the Locking and Sealing and Demolition Notice dated 12.10.2018 was issued. Therefore, aggrieved by the stand taken by the 2nd respondent, the petitioner has filed a Special Revision under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 before the 1st respondent in the year 2018. The problem faced by the petitioner is really unimaginable because without utilising the multi-level car parking for more than 3 years, it would face rusting and other connected problems. Therefore, if a direction is given to the 1st respondent to consider the long pending appeal of the petitioner on merits and in accordance with law, no prejudice would be caused to anyone. In the meanwhile, the petitioner may be permitted to use the multi-level car parking failing which the huge investment would be put to wastage or in the alternative, he would be permitted to upkeep the multi level car parking, he pleaded.

5. Mr.K.V.Sajeev Kumar, learned Special Government Pleader takes notice for 1st respondent; Mrs.P.Veena Suresh, learned Counsel takes notice for 2nd respondent CMDA and Mr.Jaivenkatesh, learned Counsel takes notice for 3rd respondent TANGEDCO.



6. Learned Special Government Pleader appearing for the 1st respondent would submit that so far as the disposal of the Special Revision Petition filed under Section 80-A of the Act is concerned, in view of the intervening covid-19 pandemic situation they were not able to give fast disposal of pending matters. However, taking into account the peculiar situation faced by the petitioner, the two Special Revisions said to have been filed by the petitioner herein would be taken up for disposal after issuing notice to the petitioner on merits within a time stipulated by this Court.

7. Considering the facts and circumstances of the matter and also the fact that since the petitioner has filed two Special Revisions, namely, one against the Lock and Seal and Demolition Notice and another against the De-occupation Notice, the 1st respondent herein is directed to dispose of the pending two Special Revisions on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this Order. Since the Completion Certificate issued by the CMDA also says that the building-in-question has been completed as per the planning permission, the petitioner is permitted to use the multi level car parking subject to the outcome of the revision petitions filed by him.

8. With the above observation and direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development Department,
St. George Fort, Secretariat,
Chennai-600 009.



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