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W.P.No.12352 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2022

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**THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

W.P.No.12352 of 2021

V.Pandiarajan

... Petitioner

-VS-

1. The Chennai Metropolitan Development Authority (CMDA)
rep. by its Member Secretary,
Thalamuthu Natarajan Buildings,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008.
2. The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai-600 003.
3. The Central Regional Deputy Commissioner,
Greater Chennai Corporation,
No.36 B, Pulla Avenue,
Shenoy Nagar,
Chennai-600 030.
4. The Executive Engineer,
Zonal Officer-10,
Greater Chennai Corporation,
No.117, N.S.K. Salai,
Kodambakkam,
Chennai-600 024.
5. M/s.SRM Institutes for Medical Science (SIMS Hospital)
rep. by its Chairman,
Old No.196/3 New No.1, Block No.51,
Saligramam Village, Jawaharlal Nehru Salai,
Vadapalani, Chennai-600 026.

... Respondents



W.P.No.12352 of 2021

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Mandamus, directing the respondents 1 to 4 to take appropriate and immediate action to demolish the unauthorized/illegal construction made by the 5th respondent in the property comprised in T.S.Nos.5/6 and 5/20 situated at Old No.196/3, New No.1, Block No.51, Saligramam Village, Jawaharlal Nehru Salai, Vadapalani, Chennai-600 026 by considering the petitioner's representation dated 25.03.2021.

For Petitioner : Mr.B.Siddeswaran

For Respondents : Mrs.P.Veena Suresh for R1

Mr.K.Raja Shrinivas,
Standing Counsel for R2 to 4

Mr.M.S.Krishnan,
Senior Counsel
for M/s.S.Rajarajan for R5

ORDER

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

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, directing the respondents 1 to 4 to take appropriate and immediate action to demolish the unauthorized/illegal construction made by the 5th respondent in the property comprised in T.S.Nos.5/6 and 5/20 situated at Old No.196/3, New No.1, Block No.51, Saligramam Village, Jawaharlal Nehru Salai, Vadapalani, Chennai-600



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026 by considering the petitioner's representation dated 25.03.2021.

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2. Learned Counsel appearing for the petitioner would submit that the petitioner claims to be an owner of the property comprised in T.S.Nos.5/6 and 5/20 situated at Old No.196/3, New No.1, Block No.51, Saligramam Village, Jawaharlal Nehru Salai, Vadapalani, Chennai-600 026 having an extent of 90 grounds in which the 5th respondent Trust is running a hospital under the name and style of "SRM Institutes for Medical Science" and also running an Arts and Science College. The petitioner is residing on the eastern part of the 100 feet road and the 5th respondent hospital is situated on the western part of the 100 feet road. In view of the unauthorized construction made by the 5th respondent, the petitioner is affected. Further, when the petitioner has visited the 5th respondent hospital for treatment, he was shocked to see the people visiting the hospital fighting and quarelling for parking space for their vehicles. Therefore, the petitioner filed an application dated 27.01.2021 under the Right to Information Act, 2005 seeking information regarding the approval of the said hospital building to the 1st respondent. Subsequently, the 1st respondent has sent a reply vide his Proceedings in Letter No.G/PIO/820/2020 dated 15.03.2021 stating that the approval was granted for three blocks with three floors each and in all the blocks the



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ground floor has to be allotted for parking whereas the 5th respondent has violated the given approval. The affidavit further says that in the "A" Block, namely, the ground floor which has to be utilised for parking space has been converted into Emergency Ward and two additional floors have been constructed whereas the approval has been given only for construction of 3 floors. In the "B" Block, the ground floor is not utilised for parking space as per the approval and additionally, one floor has been constructed violating the plan. Simultaneously in the "C" Block, the ground floor is not used for parking space and additionally, one floor has been constructed violating the plan approval. Since the unauthorized construction of the buildings have caused a public nuisance, the petitioner has given a representation dated 25.03.2021 but no action has been taken. Therefore, due to the inaction on the part of the respondents 1 to 4 in not demolishing the illegal constructions, the petitioner has come forward before this Court seeking a direction to the respondents 1 to 4 to take appropriate action.

3. The 5th respondent has filed a counter affidavit dated 07.06.2021. Before transversing the counter affidavit filed by the 5th respondent, it is relevant to consider the status report dated 22.04.2022 filed by the 1st respondent-CMDA.



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4. Mrs.P.Veena Suresh, learned Standing Counsel for 1st respondent placing before us the Status Report dated 22.04.2022 submitted that earlier, CMDA issued planning permission for the construction of 3 blocks of stilt + 3 floor office building to the site under reference vide Lr.No.B2/11637/2003 dated 16.06.2003 in the name of M/s.SSI Limited and also CMDA issued 'NOC' for obtaining service connections of power, water and sewerage vide Lr.No.EC1/25902/2003 dated 04.12.2003. Thereafter, M/s.SSI Limited applied for additional construction of 4th and 5th floors over the already approved building under reference which was dealt in C3/23585/2004. The Government Housing and Urban Department accorded approval in Lr.(Ms.)No.117 dated 19.05.2005. But due to the non-remittance of infra structural and amenity charges, the planning permission application was returned unapproved on 30.06.2009. Thereafter, the revised planning permission was issued by the CMDA for the additional construction and alteration to the earlier existing approval block of office building and change of use from office building into hospital/college use. After sometime, the 5th respondent had applied for 1st Partial Completion Certificate on 11.12.2020 to the Block-A Ground Floor part/Stilt part + 2nd Floor + 3rd Floor + 4th Floor (part) + 5th Floor (part) for hospital with health club and Swimming Pool at 2nd Floor at Old S.No.168/1, 168/2, 169/1 and



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169/2, T.S.No.5/6 and 5/20, Block No.5 of Saligramam Village within the limits of Greater Chennai Corporation. The site under reference was inspected on 10.03.201 and observed that there were some deviations with reference to the approved plan. Hence the Completion Certificate Application was rejected in Letter No.CMDA/CC/NHRB/156/2020 dated 29.07.2021. Subsequently, the applicant in letter dated 12.11.2021 represented that they have rectified the violations/deviations. Accordingly, the building under reference was reinspected on 17.11.2021 by CMDA Officials and observed that the violations/deviations have been rectified. Thereafter, the Completion Certificate No.EC/Central-I/64/2022 in Letter No.CMDA/CC/HRB/C/0156/2021 dated 03.03.2022 was issued.

5. Considering the facts and circumstances of the matter and also the fact that the Completion Certificate dated 03.03.2022 was issued after duly complying with the procedure contemplated for issuance of the Completion Certificate, we do not find any merits in the Writ Petition. However, learned Counsel for the petitioner would submit that still there are some violations and ignoring the same, the Completion Certificate has been given to the 5th respondent. If the petitioner is so aggrieved by the completion certificate given to the 5th respondent, it is open to him to work out his remedy in the manner



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6. With the above observation, the Writ Petition is dismissed.

No costs.

(T.R.J.,) (S.S.J.,)

22.04.2022

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To

1. The Member Secretary,
Chennai Metropolitan Development Authority (CMDA),
Thalamuthu Natarajan Buildings,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008.
2. The Commissioner,
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