



WEB COPY

W.P.Nos.21844 and 21851



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2022

CORAM:

**THE HON'BLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HON'BLE MR.JUSTICE K. KUMARESH BABU**

**W.P.Nos.21844 and 21851 of 2022
and W.M.P.Nos.20861, 20862, 20863,
20866, 20867 & 20868 of 2022**

1.Jains Pebble Brook Flat Owners Association,
Rep. by its Secretary,
Jains Pebble Brook, Phase-I, 1st Cross Street,
SakthiGardens Street, Okkiyampet,
Chennai – 600 097.

... Petitioner in both W.Ps

2.M/s.MK.Retail Solutions Private Ltd.,
Rep. by its represented by Mr.Sathish Sundaram,
Jains Pebble Brook, Phase-I, 1st Cross Street,
SakthiGardens Street, Okkiyampet,
Chennai – 600 097.

...Petitioner in W.P.No.21844/2022

2.M/s.Cake Point Pvt. Ltd.,
Rep. by its represented by Mrs.Thenmozhi,
Jains Pebble Brook, Phase-I, 1st Cross Street,
SakthiGardens Street, Okkiyampet,
Chennai – 600 097.

...Petitioner in W.P.No.21851/2022

vs.

1.The Commissioner of Chennai,
Greater Chennai Corporation,
Ribbon Building, Chennai.

2.The Zonal Officer,
Zone-XV, Greater Corporation of Chennai,
Sholinganallur, Chennai – 600 119.



3.The Executive Engineer,
Zone-XV, Greater Corporation of Chennai,
Sholinganallur, Chennai – 600 119.

4.The Assistant Executive Engineer,
Zone-XV, Unit-45, Greater Corporation of Chennai,
Sholinganallur, Chennai – 600 119.

5.The Assistant Engineer,
Zone-XV, DIV-196, Greater Corporation of Chennai,
Sholinganallur, Chennai – 600 119.

... Respondents in both W.Ps

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the file of the 3rd respondent to 5th respondent in respect of the impugned order dated 22.06.2022 bearing Letter No.15/00028/2022 and No.15/00029/2022 and quash the same and to the petitioners forthwith.

For Petitioners in both W.Ps : Mr.N.Ramakrishnan
for Mr.B.Manikandan
for M/s.Innovent Law Associates
For Respondents in both W.Ps : Mr.D.B.R.Prabhu
Standing Counsel

COMMON ORDER

(Order of the court was delivered by R.Subramanian, J.)

Challenging the notice dated 22.06.2022, seeking de-occupation of a portion of the building in the Apartment Complex called Jains Pebble Brook, the Flat Owners Association, Jains Pebble Brook, Phase-I, 1st Cross Street, SakthiGardens Street, Okkiyampet, Chennai – 600 097 has come up with this writ petitions.



2. The Corporation issued a Lock and Seal notice on 21.05.2022, claiming that a temporary structure measuring about 40 sq.mts. has been put up without permission and a building area measuring about 60 sq.mts. has been used for commercial purposes in violation of the sanctioned plan. While admitting the fact that the temporary structure has been put up and a portion of the club house building is being used for commercial purpose, Mr.Ramakrishnan, learned counsel appearing for the petitioners would submit that this being a huge Apartment Complex consisting about 700 Apartments and there has been no shopping facilities available in the vicinity of the Apartment Complex, the Association had thought it fit to permit a grocery shop and bakery.

3. It is incumbent upon any person to comply with the legal requirements. If the sanctioned plan is for a club house area, the same cannot be used for commercial purposes. Such use being in violation of the sanctioned plan the Enforcing Authority viz., the Chennai Corporation has got a statutory duty to ensure that there is no violation of the development rules and conditions contained in the planning permission. Once it is admitted that the area in question has been constructed as a club house, it can be used only as a club house and not otherwise. The additional structures that have been put up in the open area also ought not to have been put up without a sanctioned plan.



4. We therefore see no merit in the challenge to the de-occupation notice.

We are also informed that the deviated construction that has now been sealed by the Corporation. The petitioners' Association is given 30 days time to remove the temporary structure that has been put up. If the same is not removed within the 30 days time granted, the Corporation will take steps to remove the same.

5. In view of the above, the Writ Petitions therefore fail and accordingly dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(R.S.M., J.)

(K.B., J.)

03.11.2022

Index: no

Speaking order: Yes

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To

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