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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

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THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.18981 of 2021

Olympia Grande Apartment Owners'
Welfare Association,
rep. by its Secretary S.Chandrasekar

.. Petitioner

-vs-

1. The Chief Engineer (H),
Construction & Maintenance,
Highways Department,
76, Sardar Patel Road,
Guindy, Chennai.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan House,
No.01, Gandhi Irwin Rd,
Egmore, Chennai - 600 008.
3. The Divisional Engineer (H),
Construction & Maintenance,
Chennai City Roads Sub-Division,
Saidapet, Chennai-600 015.
4. The Assistant Divisional Engineer (H),
Construction & Maintenance,
Chennai City Roads Sub-Division,
Saidapet, Chennai-600 015.
5. The Assistant Engineer (H),
Construction & Maintenance,
Chennai City Roads Sub-Division,
Saidapet, Chennai-600 015.
6. M/s.Khivraj Tech Park Private Limited,
represented by its Managing Director,
Ajit Chordia



7.M/s.Olympia Tech Park (Chennai) Private Limited,
rep. by its Managing Director
Ajit Chordia

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the 3rd and 4th respondents to remove the illegal and unauthorised construction of Ramp of 600 sq.ft. of Highways department land in the premise, situated at No.328, GST Road, Pallavaram, Chennai-600 043, constructed by the 6th and 7th respondents and directing the 6th and 7th respondents to reconstruct the Ramp as per the approved planning permit dated 12.04.2012.

For Petitioner : Mr.A.Thiyagarajan,
Senior Counsel for
Ms.A.Vinu Prahda

For respondents: Mr.K.V.Sajeev Kumar,
Special Government Pleader
for R1, 3 to 5

Ms.Veena Suresh,
CMDA for R2

Mr.John Zachariah
for Fox Mandal Associates
for R6 & 7

ORDER

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

Olympia Grande Apartment Owners' Welfare Association, rep. by its Secretary S.Chandrasekar, the petitioner herein has filed this writ petition seeking a direction to respondents 3 and 4 to remove the illegal and un-authorised construction of Ramp, belongs to Highways department in the premises, situated at No.328, GST Road, Pallavaram, Chennai-600 043, constructed by respondents 6 and 7 and to re-construct the Ramp as per the approved planning permit dated 12.04.2012.

2.Learned counsel appearing for the petitioner submitted that the owners of the respective flats, having purchased the subject property for the valid consideration from respondents 6 and 7, formed the petitioner association and registered the same under Section 3 r/w. Rule 8 of the Tamil Nadu Societies Registration Rules and obtained the Registration Certificate under Section 10 of the above Act. Learned counsel for the



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petitioner further submitted that respondents 6 and 7 in the year 2012, have obtained planning permit for construction of 17 towers, consisting of 788 apartments for the residential purposes vide Permit No.7105-C/PP/MSB-IT/28AtoT/2012 dated 26.04.2012 and on completion of the same, a completion certificate was issued on 06.12.2017. However, the petitioner association came to know at the later point of time about the various un-authorized constructions and deviations/violations committed by respondents 6 and 7. In this regard, the petitioner association made several representations to the authorities concerned against respondents 6 and 7 with regard to the irregularities and deviations/ violations committed in the construction and project. Learned counsel for the petitioner further submitted that as per the approved planning permit dated 26.04.2012, the Ramp for the entrance to the petitioner's premises has to be built as per plan, whereas respondents 6 and 7 have un-authorizedly constructed the Ramp by illegally encroaching about 600 sq.ft. of the land, belongs to Highway department on the Railway Service Road, Pallavaram. As against the same, the petitioner made a representation dated 19.12.2020 to the third respondent to remove the encroachment and un-authorized construction made by respondents 6 and 7. Based on the same, respondents 4 and 5 conducted an inspection and found that the Ramp was built by encroaching the land, belongs to Highway Department and issued letters dated 02.03.2021 08.03.2021. Despite the same, respondents 6 and 7 have not chosen to remove the illegal encroachment and un-authorized construction of Ramp on the Railway Service Road and to restore the same in accordance with the planning permit dated 26.04.2012. When respondents 6 and 7 failed to comply with the directions of the statutory notices, the petitioner made another representation dated 05.07.2021 to the competent authorities to remove the illegally constructed ramp and restore the same in accordance with the planning permit dated 26.04.2012, as per letters dated 02.03.2021 and 08.03.2021. As there was no response, the petitioner is before this Court.

3.Status report dated 26.04.2022 has been filed by the second respondent.

4.Heard both sides.

5.This Court, after notice to respondents 1, 3 to 5 and CMDA/the second respondent herein, granted sufficient time to the parties concerned to resolve the issue by passing various orders. Pursuant to the same, the first respondent had issued a letter dated 24.05.2022 to the competent authorities, which is extracted as under:

'12.The Government after careful consideration, hereby



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direct Chennai Metropolitan Development Authority to de-seal the subject building and also direct the appellants either to restore the building as per approved plan or to obtain revised planning permission as per Tamil Nadu Combined Development and Building Rules, 2109 within three months from the date of receipt of this order failing which Chennai Metropolitan Development Authority is directed to pursue necessary enforcement action as per the provisions of Tamil Nadu Town and Country Planning Act, 1971. The appeal is disposed accordingly, subject to the outcome of the various writ petitions pending before the Hon'ble High Court of Madras.'

6. Since the Government had rightly considered the issue, raised by the petitioner and the reply given by respondents 6 and 7, the directions, given to the CMDA to de-seal the subject building and to the petitioner to restore the building as per approved plan or to obtain revised planning permission as per Tamil Nadu Combined Development and Building Rules, 2109 within three months from the date of receipt of the order, are perfectly in order.

7. As it is submitted that in view of the above direction given in paragraph 12 of the letter dated 24.05.2022, the deviated portions have been completely removed by respondents 6 and 7, this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vga

To

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Chennai City Roads Sub-Division,
Saidapet, Chennai-600 015.
5. The Assistant Engineer (H),
Construction & Maintenance,
Chennai City Roads Sub-Division,
Saidapet, Chennai-600 015.

+1cc to M/s.Fox Mandal Associates, Advocate, S.R.No.34336
+1cc to Mr.S.Ramesh Kumar, Advocate, S.R.No.35007
+1cc to M/s.P.Veena Suresh,, Advocate, S.R.No.34641
+1cc to the Government Pleader, S.R.No.35322

W.P.No.18981 of 2021

RGN(CO)
CT/29/06/2022