



W.P.No.25615 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.25615 of 2021

and

W.M.P.Nos.27035, 27037, 27039, 27040, 27042, 27044,
27045, 27046, 27048 and 27050 of 2021 and
W.M.P.Nos.14830 and 15440 of 2022

G.Srinivasan

.. Petitioner

Vs.

1.Member Secretary,
Chennai Metropolitan Development Authority,
Thazha Muthu Natarajan Building,
Egmore, Chennai.

2.MS.Ramesh
MS Properties
(Builders of the Surendra Homes, Pallavaram)
C/o.Twin Twigs,
1/150, Thazambur Main Road, Navalur
Chennai-600130.

3.P.Jeyavelu

4.The Member Secretary, Housing and Urban
Development Department, Secretariat, Chennai – 9. .. Respondents

(R4 Suo Motu impleaded vide order dated
26.10.2022 made in W.P.No.25615 of 2021)



Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the 1st respondent to ensure that the 2nd respondent apply for issue of Completion Certificate i.r.o. the constructions carried out by him (respondent-2) in Surendra Homes, No.1, Pammal Main Road, Pallavaram, Chennai-43 at his (respondent-2) cost and the Penalties and compounding fee if any charged and Paid by him within Fifteen days of this petition, to direct the 1st respondent to issue the Completion Certificate immediately within a reasonable time after condoning/approving the conversion of Open terraces in the Flats 401 to 408 in the Fourth Floor into bedrooms by the 2nd respondent and sold as three bed room Flats, as covered under the exemption cl.1.9. of Annexure-XVIII of DR-2008 of CMDA and cl.(iii) of the Conditions associated with the application of the 2nd respondent dated 29.09.2006 and to direct the 1st respondent to ensure that the 2nd respondent hand over the unauthorised conversions in the stilt-floor to the Surendra Homes Apartment Owners' Welfare Association (SHAOWA) for conversion of the same into the SHAOWA Office Room and Gymnasium as was originally envisaged under Section 6(3) of the TN Apartment Ownership Act, 1994, at the cost of the 2nd respondent.

For Petitioner : Mr.G.Srinivasan
(Party-in-Person)

For R1 : Mr.P.Kumaresan
Additional Advocate General
Assisted by Mr.R.Thamaraiselvan
Standing Counsel

For R2 : Mr.Nandakumar



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For R3 and R4 : No Appearance

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ORDER

(Order of the Court was delivered by V.M.VELUMANI, J.)
The present writ petition is filed for the following prayers:-

- (i) to direct the 1st respondent to ensure that the 2nd respondent apply for issue of Completion Certificate i.r.o. the constructions carried out by him (respondent-2) in Surendra Homes, No.1, Pammal Main Road, Pallavaram, Chennai-43 at his (respondent-2) cost and the Penalties and compounding fee if any charged and Paid by him within Fifteen days of this petition.
- (ii) to direct the 1st respondent to issue the Completion Certificate immediately within a reasonable time after condoning/approving the conversion of Open terraces in the Flats 401 to 408 in the Fourth Floor into bedrooms by the 2nd respondent and sold as three bed room Flats, as covered under the exemption cl.1.9. of Annexure-XVIII of DR-2008 of CMDA and cl.(iii) of the Conditions associated with the application of the 2nd respondent dated 29.09.2006.
- (iii) to direct the 1st respondent to ensure that the 2nd respondent hand over the unauthorised conversions in the stilt-floor to the Surendra Homes Apartment Owners' Welfare Association (SHAOWA) for conversion of the same into the SHAOWA Office Room and Gymnasium as was originally envisaged under Section 6(3) of the TN Apartment Ownership Act, 1994, at the cost of the 2nd respondent.



2. Heard the learned counsel appearing for the petitioner, learned Additional Advocate General appearing for the 1st respondent as well as learned counsel appearing for the 2nd respondent and perused the entire materials on record. Though counsels have entered appearance for respondents 3 and 4, there is no representation for them today.

3. When the writ petition is taken up for hearing, Mr.G.Srinivasan/Party-in-Person submitted that the 2nd respondent has constructed the premises and he has purchased the flat in 4th floor and now, the 2nd respondent has not applied to the 1st respondent for issuance of Completion Certificate and he submitted that a direction may be issued to the 2nd respondent to apply for Completion Certificate to the 1st respondent.

4. Mr.P.Kumaresan, learned Additional Advocate General appearing for the 1st respondent submitted that the 2nd respondent has put up some unauthorised construction in violation of the approval granted to the 2nd respondent. In view of the same, the lock and seal notice dated 02.06.2022 was issued to the 2nd respondent to remove the unauthorised construction. Once the unauthorised construction is removed and if the



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2nd respondent applies for Completion Certificate after rectifying the defects, the same will be considered in accordance with law.

5. The learned counsel appearing for the 2nd respondent submitted that the 2nd respondent will apply for regularisation of the unauthorised constructions.

6. In view of the above submissions made by the parties, the 1st respondent is directed to proceed further based on the lock and seal notice dated 02.06.2022 issued under Sections 56 and 57 read with Section 85 of the Town and Country Planning Act, 1971 and in accordance with law, after considering the reply by all concerns.

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

(V.M.V., J) (R.H., J)
15.12.2022

Index : Yes / No
Internet : Yes / No

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V.M.VELUMANI, J.
and
R.HEMALATHA, J.

dm

To

- 1.Member Secretary,
Chennai Metropolitan Development Authority,
Thazha Muthu Natarajan Building,
Egmore, Chennai.
- 2.The Member Secretary, Housing and Urban
Development Department, Secretariat, Chennai – 9.

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