



W.P.No.23660 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.09.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE P.D.AUDIKEVALU

W.P.No.23660 of 2022 and W.M.P. No.22607 of 2022

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

... Petitioner

VS

1.The Additional Secretary (Technical),
Housing and Urban Development Department,
The Government of Tamil Nadu,
Fort St. George,
Chennai – 600 009.

2.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan House,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008.

3.M/s.Khivraj Tech Park Private Limited,
rep. by its GPA Mr.A.Lakshmi Narayanan,

4.M/s.Olympia Tech Park (Chennai) Pvt. Ltd.,
rep. by its Authorised Agent
Mr.A.Lakshmi Narayanan

5.The Registrar of Societies – cum
District Registrar (Administration),
Chennai South,
Chennai – 600 032.

6.R.Senthil Kumar

... Respondents



W.P.No.23660 of 2022

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari to call for the records relating to the order in Letter No.2987/UD-VII (1)/2020-6 dated 24.05.2022, passed by the Additional Secretary to the Government of Tamil Nadu, Housing and Urban Development Department, the Appellate Authority under the Tamil Nadu Town and Country Planning Act, 1971, the first respondent herein and quash the same.

For Petitioner : Mr.T.R.Sathiya Mohan

For Respondents : Mr.K.V.Sajeev Kumar,
Special Government Pleader
for R1 and 5

Mrs.C.N.Vinobha for R2

ORDER

[Order of this Court delivered by T.RAJA, J.]

This writ petition has been filed by the petitioner, challenging the correctness of the impugned Letter No.2987/UD-VII (1)/2020-6 dated 24.05.2022, addressed by the Additional Secretary to the Government of Tamil Nadu, Housing and Urban Development Department, the first respondent herein under the Tamil Nadu Town and Country Planning Act, 1971.

2.Learned counsel appearing for the petitioner submitted that respondents 3 and 4 herein had developed an extent of land, measuring 6.36 acres, situated at Block No.15, Ward A, No.328, GST Road, Issa Pallavaram Village, Tambaram Taluk, Kanchipuram District



W.P.No.23660 of 2022

into a large gated community, consisting of 17 towers with Blocks A to F, comprising of 788 residential apartments by name 'Olympia Grande Apartments'. Learned counsel for the petitioner further submitted that necessary planning permit for the said development/construction was obtained from the Chennai Metropolitan Development Authority in the year 2012 vide Permit dated 26.04.2012 and that the Flat owners have formed the petitioner Association Olympia Grande Apartment Owners Welfare Association, Pallavaram and registered the same under Section 3 read with Rule 8 of the Tamil Nadu Societies Registration Rules and the fifth respondent issued a certificate in Form II under Section 10 of the Tamil Nadu Societies Registration Act 1975. As per the construction agreement, the fifth respondent started construction and continued the same in violation to the revised approved permit dated 09.08.2017. Therefore, the petitioner association submitted representations dated 01.09.2019 and 15.12.2019 to the Chennai Metropolitan Development Authority, the second respondent herein pointing out certain violations of the approved plans. Thereafter, respondents 3 , 4 and 6 filed an Appeal to the Government of Tamil Nadu, Housing and Urban Development Department under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 against the locking and sealing and demolition and de-occupation notices issued by the second respondent. Pursuant to



W.P.No.23660 of 2022

the appeal, the first respondent has directed the Chennai Metropolitan Development Authority to de-seal the subject building and also directed 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, 2019 within three months from the date of receipt of the order. Learned counsel for the petitioner further submitted that when the violations pointed out are admittedly subsisting without restoration, the question of de-sealing the building does not arise and therefore, the impugned order passed by the first respondent directing the Chennai Metropolitan Development Authority to de-seal the subject building is unsustainable in law because it suffers from total non application of mind.

3.But, we are unable to find any justification on the submissions made by the learned counsel for the petitioner. It could be seen from records that after inspecting the building on 13.01.2020 at the site along with Association Members, the Chennai Metropolitan Development Authority has issued locking and sealing and demolition notice dated 07.02.2020 for the un-authorised/ deviated building and observed the following deviations to the approved plan:

'i.Tower-'C' Building consists of Basement Floor + Ground Floor + 11 Floors has been partially occupied.



W.P.No.23660 of 2022

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- ii. Basement floor has been converted into habitable use.*
- iii. Stilt Floor (Parking) has been converted into Ground Floor i.e. Kitchen-cum-Restaurant.*
- iv. First floor and second floor internal partition works are under progress.*
- v. Third floor to eleventh floor consists of 11 rooms in each floor has been partially occupied.*
- vi. Separate bifurcation along with gate has been provided to the Tower 'C' Block.'*

4. Subsequently, a Revision Petition was filed on 17.02.202 and 15.12.2021 and entertaining the said revision petition, the first respondent, directed the Chennai Metropolitan Development Authority to de-seal the said building and also directed the appellants therein to restore the building as per approved plan or to obtain revised planning permission as per Tamil Nadu Combined Development and Building Rules, 2019 within three months from the date of receipt of the order and in case of failure, directed the Chennai Metropolitan Development Authority to pursue necessary enforcement action as per the provisions of Tamil Nadu Town and Country Planning Act, 1971. As the direction given is only to rectify the deviations or defects or to obtain revised planning permission as per Tamil Nadu Combined Development and Building Rules, 2019, the building is required to be de-sealed. Secondly, when the revision petitioners have taken a stand in their representation requesting for de-sealing the property situated



W.P.No.23660 of 2022

at 3rd to 11th floors of Tower-C, comprised in Survey Nos.32/1, 2, 3...., Block No.15 of Issa Pallavaram Village, Door No.328, G.S.T.Road, Pallavaram, Chennai-600 043 to operate a service apartment for senior citizens and senior living, the direction given for de-sealing cannot be found fault. Thirdly, when the promoter has come forward to rectify the deviations or defects made by him and to restore the building back to the original position as per the planning permission, the contention made by the petitioner that the authority concerned ought not to have given such a direction to de-seal the building, cannot be acceptable. Therefore, we are not inclined to entertain this petition, which is bereft of any merit. Accordingly, this writ petition stands dismissed. Consequently, connected W.M.P. stands closed. No costs.

[T.R.,J.] [P.D.A.,J.]
05.09.2022

vga
Index: Yes/No



W.P.No.23660 of 2022

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To

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W.P.No.23660 of 2022

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