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W.P.No.7210 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.03.2023

CORAM

THE HONOURABLE MS. JUSTICE V.M.VELUMANI
AND
THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

W.P.No.7210 of 2023

M/s.Bayview Flat Owner's Association
Represented by its Secretary
Mr.Nagarajan
Shop No.4, IVth main road
Besant Nagar, Chennai-600 009.

.. Petitioner

Vs.

1.The Chairman
Chennai Metropolitan Development Authority
Gandhi Irwin Road
Egmore, Chennai-600 008.

2.The Enforcement Cell
Represented by Assistant Engineer
Chennai Metropolitan Development Authority
Gandhi Irwin Road
Egmore, Chennai-600 008.

3.N.Kittu

4.Saravanan

5.Manpreet Kaur

.. Respondents



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Prayer:Writ Petition filed under Article 226 of the Constitution of India

praying for issuance of Writ of Mandamus to direct the respondents 1 & 2 to consider the petitioner's representation dated 16.09.2022 and take immediate action to remove the unauthorised construction in Block No.H-132 within a time frame to be fixed by this Court.

For Petitioner : Mr.S.Jaganathan
For R1 & R2 : Mr. R.Sivakumar
Standing Counsel

ORDER

(Order of the Court delivered by V.LAKSHMINARAYANAN, J.)

The petitioner has come out with the present Writ Petition for a direction to the respondents 1 & 2 to consider his representation dated 16.09.2022 and take immediate action to remove the unauthorised construction in Block No.H-132 within a time frame to be fixed by this Court.



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2. By consent of both the learned counsel appearing for the petitioner as well as Mr.R.Sivakumar, learned Standing Counsel, who takes notice for the respondents 1 & 2, the Writ Petition is taken up for final disposal at the stage of admission itself.

3. The case of the petitioner is that he is Secretary of M/s.Bayview Flat Owners' Association. Buildings were constructed by the Tamil Nadu Housing Board and sold to the individual owners. There are several blocks and each block contains six apartments. With regard to Block No.H/132, there are six owners, whose names are set forth in the tabular column given below:

<i>Mr.L.V.Mahadevan Flat No.132/1</i>
Mr.N.Kittu, Flat No.132/2 (3 rd respondent herein)
Mr.K.Srinivasan, Flat No.132/3
Mr.Saravanan, Flat No.132/4 (4 th respondent herein)
Mrs.Gayathri Ganapathy, Flat No.132/5
Smt.Manpreet Kaur, Flat No.132/6 (5 th respondent herein)

The owners in Flat Nos.132/2, 132/4 & 132/6 have put up unauthorised construction without any sanctioned plan. The additional constructions have encroached into common areas. The Writ Petitioner objected to the



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additional construction being put up without approved plan. One of such flat owners, who had built unauthorisedly had issued a reply saying that his Flat No.132/2 is pending regularisation before the authorities in his regularisation plan LR.No.Reg.III/B6/29437/2003, dated 07.12.2004. Even after a period of two years, the sanctioned plan for regularisation has not been furnished to the Association. Hence, the Association issued letters to the respondents 1 & 2 and also to the owners calling upon them to restore the building to its original position. Following the COVID-19 pandemic, no action was taken. The Resolution to pull down the unauthorised construction made in the common area was reiterated by the Resolution dated 09.01.2022. Pursuant thereto, representation was sent to the respondents 1 & 2 on 16.09.2022. Since no action has been taken by the respondents 1 & 2, the present Writ Petition has been filed.

4. We heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents 1 & 2 and carefully perused the records.



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5. Considering the nature of the relief sought for in the Writ Petition, the respondents 1 & 2 are hereby directed to inspect the property within a period of two weeks from the date of receipt of a copy of this order and if they find any unauthorised construction, take action within a period of eight weeks thereafter. Prior to inspection and taking any enforceable action if any, the respondents 1 & 2 are directed to put all the owners of the flats as well as petitioner including respondents 3 to 5 on notice.

6. With the above directions, the Writ Petition is disposed of. No costs.

(V.M.V.,J.) (V.L.N.,J.)
10.03.2023

Index : Yes/No
Neutral Citation : Yes / No
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AND
V.LAKSHMINARAYANAN, J.

Kj

To

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Chennai Metropolitan Development Authority
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Egmore, Chennai-600 008.

2.The Enforcement Cell
Represented by Assistant Engineer
Chennai Metropolitan Development Authority
Gandhi Irwin Road
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