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W.P.No.6384 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2023

CORAM:

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

W.P.No.6384 of 2019
and
W.M.P.No.2850 of 2021

V.G.Selvaraja

.. Petitioner

Vs.

- 1.The Secretary to Government
Housing and Urban Development Department
Fort St. George
Chennai-9.
- 2.The Member-Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irvin Road
Egmore
Chennai-600 008.
- 3.M/s Chitra Constructions Pvt.Ltd
by its Director
No.AH-220, 2nd Street
8th Main Road
Chennai – 600 040.
- 4.Chitra Avenue Flat Owners
Welfare Association
Jayam Block Basement
Chitra Avenue
No.9, Choolaimedu High Road
Chennai – 94.



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5. The Administrator,
Chitra Avenue Flat Owners Welfare Association,
Choolaimedu High Road, Chennai-94.

6. M/S. STELLA STUDIOS, Shop No.1.

7. M/S. FOOD PARK RESTAURANT, Shop No.2.

8. JEE TIL OPTICALS, Shop No.3.

9. M/S. MUTHU PHARMACY, Shop No.4.

10. SHEESHA DIGITAL STUDIO, Shop No.5.

11. M/S. CAKE PARK, Shop No.6.

12. SRI KRISHNA PHARMACY, Shop No.7.

13. M/S. J.V. HOSPITAL, Shop No.8.

14. M/S. KOLKOTTA MITHAI BHAVAN, Shop No.9.

15. M/S. HANEEFA SUPERMARKET, Shop No.10 and 11,
R5 to R15 are doing business activities at No.9,
Choolaimedu High Road, Chennai-600094.

(R5 to 15 impleaded as per order dated 09.03.2020 made
in W.M.P.No.12601 of 2019 in W.P.No.6384 of 2019)

16. S. Vaidhiyanathan

.. Respondents

(R16 impleaded as per order dated 09.03.2020 made in
W.M.P.No.25945 of 2019 in W.P.No.6384 of 2019)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a WRIT OF MANDAMUS, directing the respondents 1 and 2 to take appropriate action for the removal of unauthorised constructions made in the stilt area (Ground Floor) of all



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blocks and shops constructed in the place of the departmental store as per the sanctioned plan granted by the second respondent in TS No.174, 183, 189 and No.18, Block No.16 of Puliyur Village, Sowrastra Nagar, Ist Street, now named as Chitra Avenue, No.9, Choolaimedu High Road, Chennai-94.

For Petitioner : Mr.S.Kamadevan

For R1 : Mr.E.Vijay Anand
Additional Government Pleader

For R2 : M/s.P.Veena Suresh

For R6 to R8 and
R10 to R14 : Mr.K.Chandrasekaran

For R16 : Mr.K.Suresh

For R3 : No Appearance

ORDER

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

This writ petition seeks for a direction to the respondents 1 and 2 to take appropriate action for removal of unauthorised constructions made in the stilt area (ground floor) of all blocks and shops constructed in the place of departmental store (as per the sanctioned plan) granted by the 2nd respondent in TS Nos.174, 183, 189 and 18 situated at Block No.16 of Puliyur Village, Sowrastra Nager, 1st Street, now named, “Chitra Avenue” at No.9, Choolaimedu High Road, Chennai-94.



2. The learned counsel for the writ petitioner submits that the administrator who was appointed and impleaded as 5th respondent in the writ petition has been discharged. His statement is recorded and the name of the 5th respondent is deleted from the array of parties.

3. The allegation of the petitioner is that there are unauthorised constructions put up by the respondents Nos.6 to 16. It is the further case that the plan and approval for departmental store whereas individual shops have been constructed and few of them are in occupation of the respondents 6 to 16 and action has to be initiated for this alleged violation.

4. The learned counsel appearing for the shop owners would submit that they have purchased the shops, which were earmarked as departmental stores and the change in user cannot be a ground for demolition.

5. The issue whether there is an violation can be decided by the Chennai Metropolitan Development Authority (CMDA) after inspection of the premises. The Chennai Metropolitan Development Authority



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(CMDA)/the 2nd respondent is directed to inspect the premises within a period of two weeks from the date of receipt of a copy of this order. If there are any unauthorised constructions or deviations, it shall issue notice to the occupier/s and the owner/s within two weeks thereafter. The occupiers/owners shall submit their explanation as per Section 56(3) of the Town and Country Planning Act, 1971. Thereafter, Chennai Metropolitan Development Authority (CMDA) shall take an appropriate action.

6. With the above direction, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

(V.M.V., J) (V.L.N., J)
02.03.2023
(2/2)

Index : Yes / No
Neutral Citation : Yes / No
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V.M.VELUMANI, J.
and
V.LAKSHMINARAYANAN, J.

dm

To

- 1.The Secretary to Government
Housing and Urban Development Department
Fort St. George, Chennai-9.
- 2.The Member-Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irvin Road, Egmore,
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