



W.P.No.6898 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2023

CORAM:

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MRS. JUSTICE N.MALA**

**W.P.No. 6898 of 2019
and W.M.P.Nos. 7640 & 7709 of 2019**

1. Kanchana Devi
2. Chandra Devi
3. Suman Jain

... Petitioners

Vs.

1. Government of Tamilnadu
Rep by its Secretary to Government
Housing and Urban Development Department,
Secretariat, Chennai-9
2. Chennai Metropolitan Development Authority
Rep by its Member Secretary
No 1, Gandhi Irwin Road
Egmore, Chennai-8
3. Greater Chennai Corporation
Rep by its Commissioner
Rippon Buildings
Chennai-3
4. Executive Engineer
Greater Chennai Corporation
Zone V, No 3, Vadivel 2nd cross street
Perambur, Chennai-600 011



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5. Pooja Rani

6. Rekha devi

7. Mamta

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, to direct the respondents 2 to 4 to initiate action of demolition to remove the deviated portions in the existing stilt + 2 floors, in Old Door No.14, New Door No.16, Vathiyar Kandapillai Street, Choolai, Chennai – 112, in pursuance to the De-Occupation notice issued by the 3rd and 4th respondents in notice ZOVC No.11668/14 dated 14.10.2016 and in consideration of the 1st petitioner's representation dated 26.12.2017 to the respondents 1 to 3.

For Petitioners : Mr. D.S.Rajasekaran

For Respondents : Mr.P.Gurunathan
Addl. Government Pleader for R1
Mr.C.N.Vinoba
Standing Counsel for R2
Mr.D.B.R.Prabhu
Standing Counsel for RR3 & 4

ORDER

(Order of the Court was made by **J.NISHA BANU, J.,**)

This Writ Petition has been filed for issuance of Writ of Mandamus, to direct the respondents 2 to 4 to demolish the deviated portions in the existing



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stilt + 2 floors, in pursuance to the De-Occupation notice issued by the 3rd and 4th respondents in notice ZOVC No.11668/14 dated 14.10.2016 and in consideration of the 1st petitioner's representation dated 26.12.2017.

2. It is averred in the writ petition that the petitioners herein are the joint owners/co-owners of the subject property. The 1st petitioner was entrusted to develop and construct a multi-storied building. The 1st petitioner obtained sanction for construction of stilt + 2 floors. However, constructed additional floors, viz., 3rd and 4th floors and sold the same to the petitioners 2 and 3.

3. Earlier one T.Solomon filed a Writ Petition in W.P.No.23936 of 2010 praying to direct the respondents to remove the unauthorised construction. This court directed the respondents-Chennai Corporation to demolish the unauthorised construction.

4. Aggrieved by the above said direction, the 1st petitioner-Kanchana Devi, approached the Hon'ble Supreme Court in Civil Appeal No.5586 of 2014 (Special Leave Petition No.37800/2013, wherein the Hon'ble Supreme



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Court, vide order dated 09.05.2014, directed the 1st petitioner to demolish the deviated portions of the premises within a period of three months from the date of de-sealing, in default, the 1st petitioner herein was directed to pay Rs.2,00,000/- to the respondent Corporation by way of costs and it would be open to the respondents 3 and 4 to demolish the unauthorized portions of the premises in question.

5. Subsequently, the 1st petitioner had remitted Rs.2,00,000/- to the respondent Corporation, however, only 3rd and 4th floors were demolished and the respondent Corporation did not take steps to demolish the deviated portions in the 1st and 2nd floors.

6. T.Solomon filed Contempt Petition in Conmt.Pet.(C).No.596 of 2016 as against the petitioners herein and the Corporation. The Hon'ble Supreme Court, vide order dated 30.01.2017, directed the respondent Corporation to demolish the entire unauthorized construction in the premises in question, before the next date of hearing, viz., before 03.03.2017.



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7. The learned counsel appearing for the petitioners would submit that the Contempt Petition pending before the Hon'ble Supreme Court has reached its finality on 22.07.2019, wherein it has been held as follows:-

“We have perused the replies filed by the respondent nos. 1 and 2. The demolition of the third and fourth floors of the building has been carried out partially i.e. by demolition of the roofs. The side walls have been retained and in the meantime, there are restraint orders passed by the authorities, as well as, an injunction order passed by a competent Court. If that be the position, while the injunction order of the civil Court is in force, no further demolition can be carried out. Therefore, there is no wilful disobedience of any order of this Court.

While it will be open for the aggrieved party to move the competent authority/civil Court for vacation of the restraint order/injunction order, we are not inclined to pass any further orders in the present contempt petition, which will stand closed in the above terms.

The respondent no. 2 Commissioner, Corporation of Chennai will be at liberty to recover the cost of the demolition carried out till date from the respondent no.



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1 - Kanchana Devi, which amount has been quantified at Rs.3,25,000/- (Rupees Three Lakhs Twenty Five Thousand Only) ”

8. The learned Standing counsel for respondents 3 and 4 would further submit that based on the directions of the Hon'ble Supreme Court, the quantified amount of Rs.3,25,000/- has been paid to the respondents 3 and 4, by way of Demand Draft.

9. Taking note of the above facts of the case and that the respondents 3 and 4 requires reasonable time for completing the enforcement action, this Court directs the respondents 3 and 4 to complete the enforcement action of demolition in respect of the deviated portions, within a period of eight weeks from the date of receipt of a copy of this order.

10. With the above directions, this Writ Petition stands disposed of. No costs. Consequently connected miscellaneous petitions are closed.

(J.N.B., J.) (N.M., J.)
17.08.2023



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To :

1. The Secretary to Government
Housing and Urban Development Department,
Secretariat, Chennai-9
2. The Member Secretary,
Chennai Metropolitan Development Authority
No 1, Gandhi Irwin Road,
Egmore, Chennai-8
3. The Commissioner,
Greater Chennai Corporation
Rippon Buildings
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J. NISHA BANU, J.
and
N.MALA, J.

sts

Order made in
W.P.No.6898 of 2019

Dated:
17.08.2023