



WEB COPY



W.P.No.11652 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.11652 of 2020

and

W.M.P.No.14287 of 2020

Lokabiraman

.. Petitioner

Vs.

1.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maligai,
Gandhi Irwin Road, Egmore,
Chennai – 600 003.

2.The Commissioner,
Greater Chennai Corporation,
Ripon Buildings, Park Town,
Chennai – 600 003.

3.The Executive Engineer,
The Planning Officer,
Zone 7 Division,
Local Planning Authority,
Ambattur,
Chennai – 600 053.

4.J.Ragupathi

5.Pushgaram

6.The Asst. Executive Engineer,



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TANGEDCO,
Ambattur, Chennai.

7. The Asst. Executive Engineer,
Chennai Metropolitan Water Supply
and Drainage Board,
Ambattur, Chennai.

.. Respondents

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 to 3 to take appropriate legal action under Sections 49 and 56 of the Tamil Nadu Town and Country Planning Act, 1971 as Amended Act to remove the deviated offending construction as pointed out vide Notice No.OVIIDN85 TPENF/588/2018 dated 10.12.2018 mentioning receipt of approved plan on 10.12.2018 and for removal of two living rooms extending staircase in the third floor appearing to be staircase in the third floor construction without planning permit and building plan on the premises at Door No.75, MTH Road, Varadarajapuram, Ambattur, Chennai (Bazaar Road) and restraining the respondent No.3 from issuing completion certificate and the respondents 6 and 7 from sanctioning and giving service connection such as electricity by TNEB and Sewerage and Drainage Connection respectively to the premises at S.No.75, MTH Road (Bazzar) Road, Ambattur, Chennai.

For Petitioner : Mr.J.R.K.Bhavanantham



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For R1 : Mr.C.N.Vinobha,
Standing Counsel

For RR 2 & 3 : Mr.D.B.R.Prabhu
Standing Counsel

For RR 4 & 5 : Mr.S.Santhan

For R7 : Mr.V.Jerry

ORDER

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

The petitioner has come out with the present Writ Petition for a direction to the respondents 1 to 3 to take appropriate legal action under Sections 49 and 56 of the Tamil Nadu Town and Country Planning Act, 1971, as Amended Act to remove the deviated offending construction as pointed out vide Notice No.OVIIDN85 TPENF/588/2018, dated 10.12.2018 mentioning receipt of approved plan on 10.12.2018 and for removal of two living rooms extending staircase in the third floor appearing to be staircase in the third floor construction without planning permit and building plan on the premises at Door No.75, MTH Road, Varadarajapuram, Ambattur, Chennai (Bazaar Road) and restraining the 3rd respondent from issuing completion certificate and the respondents 6 and 7 from sanctioning and giving service connection such as electricity



by TNEB and Sewerage and Drainage Connection respectively to the said premises.

2.Heard the learned counsel appearing for the petitioner, learned counsel appearing for 1st respondent, learned Standing Counsel appearing for respondents 2 & 3, learned counsel appearing for 4 & 5 and the learned counsel appearing for 7th respondent and perused the entire materials on record.

3.The petitioner claims to be owner of the property in question and contended that the respondents 4 & 5 demolished the old building and is putting up construction in deviation of the approved plan. In the affidavit, the petitioner has made various averments with regard to title and unauthorized construction put up by respondents 4 & 5. The learned counsel appearing for the petitioner submitted that the respondents 4 & 5 obtained permission for construction of ground, first and second floor, but deviating the approved plan, constructed a commercial building in stilt floor and converted the same as commercial area. The petitioner gave representation to the respondents 1 to 3, but they have not taken any action. Hence, the petitioner has come out with the present Writ Petition



for the relief sought for above.

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4.The 3rd respondent filed status report. The learned Standing Counsel appearing for respondents 2 & 3 submitted that on receipt of the complaint, notice was issued to the respondents 4 & 5. Challenging the said notice, the respondents 4 & 5 filed appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 and the said appeal was rejected directing the Corporation to take appropriate action. Against the said order, the respondents 4 & 5 filed review petition. Pending Writ Petition, the officials inspected the property and found that the respondents 4 & 5 have put up unauthorised construction in the stilt floor deviating the approved plan and also converted the residential area into commercial area and the said construction is unauthorised. The appeal filed by the respondents 4 & 5 was rejected by the Government. The respondents 4 & 5 have filed Review Petition and the same is pending. No stay has been granted by the Government. The respondents 2 & 3 will proceed further and take action against the respondents 4 & 5 for removing unauthorized construction and prayed for passing suitable orders.



5.The learned counsel appearing for the respondents 4 & 5 submitted that the petitioner has given false complaint in view of the complaint given by the 4th respondent against the petitioner for removing unauthorized construction put up by him. The respondents 4 & 5 filed Review Petition against the action taken by the respondents 2 & 3 and the same is pending and prayed for dismissal of the Writ Petition.

6.From the above materials, it is seen that after inspection of the property in question, it is found that respondents 4 & 5 have put up construction in deviation from the approved plan. In the Review Petition filed by the respondents 4 & 5, the Government has not granted stay of proceedings initiated by the respondents 2 & 3.

7.Considering the above materials, the respondents 1 to 3 are directed to take appropriate proceedings against the respondents 4 & 5 as per the order of the Government passed in the appeal dated 26.10.2021. It is open to the respondents 4 & 5 to get their Review disposed at the earliest.

8.With the above observations, the Writ Petition is disposed of.



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Consequently, the connected Miscellaneous Petition is closed. No costs.

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

24.02.2023

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Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

To

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V.M.VELUMANI, J.



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and

R.HEMALATHA, J.

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5.The Asst. Executive Engineer,
Chennai Metropolitan Water Supply
and Drainage Board,
Ambattur, Chennai.

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