



W.P.No.8379 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.P.No.8379 of 2023 and

WMP Nos.8558 and 8559 of 2023

1. V.Mohan

2. P.V.Hema

... Petitioners

Vs.

1. The Additional secretary to Government,
Housing and Urban Development Department,
Fort St.George, Chennai 600 009.
2. The Member Secretary,
Chennai Metropolitan Development Authority (CMDA),
Gandhi Irwin Road, Chennai 600 008.
3. The Commissioner, Greater Chennai Corporation,
Rippon Building, Chennai 600 003.
4. Zonal Executive Engineer, Zone XIII,
No.115, Dr.Muthulakshmi Salai,
L.B.Road, Chennai 600 020.



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WEB COPY

5. Assistant Executive Engineer,
Unit 39, Division 179, 256, Velachery Road,
Lakshmipuram, Velachery, Chennai 600 042.

6. Assistant Engineer, Division 179,
256, Velachery Road, Lakshmipuram,
Velachery, Chennai 600 042.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Mandamus directing the respondents 3 to 6 to grant permission to the petitioners to carry out rectification work for rectification of excess portion in the residential apartment building constructed in plot No.8, 8th Main Road, Dhandeeswaram Nagar, Velacherry, Chennai-42, for complying with the order dated 31.05.2022, passed by the first respondent, by granting four months time and consequently, directing the respondents to drop further action, as per the notice dated 02.03.2023 ref. Notice No.Div: 179/0004/2021 issued by the respondents 4 to 6.

For petitioners : Mr.S.Thanka Sivan

For respondents : Mr.R.Vigneshwaran,
Government Advocate for R1

Mr.R.Sivakumar,
Standing Counsel for R2

Mr.D.B.R.Prabhu,
Standing Counsel for R3 to R6



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ORDER

WEB COPY (Order of this Court was delivered by D.KRISHNAKUMAR, J.)

This writ petition has been filed seeking to issue a Writ of Mandamus directing respondents 3 to 6 to grant permission to the petitioners to carry out rectification work for rectification of excess portion in the residential apartment building constructed in plot No.8, 8th Main Road, Dhandeeswaram Nagar, Velacherry, Chennai-42, for complying with the order dated 31.05.2022, passed by the first respondent, by granting four months time and consequently, directing the respondents to drop further action, as per the notice dated 02.03.2023 ref. Notice No.Div:179/0004/2021 issued by the respondents 4 to 6.

2. The case of the petitioners in brief:

The first petitioner is the owner of Flat No.B in the ground floor and the second petitioner is the owner of Flat No.A in the ground floor of the Khurinji's Oasis Apartment in Plot No.8 measuring 3983 sq.ft. 8th Main Road, Dhandeeswaram Nagar, Velacherry, Chennai-42. In view of the issue raised by one Mrs.R.C.Mini that the building constructed in the premises is



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an unauthorised one, Lock and Seal notice was issued in the year 2021. The petitioners preferred an Appeal under Section 80 A of the Town and Country Planning Act and pending appeal, the first respondent directed the third respondent CMDA to take measurement of the building and to file a report. After receipt of the status report from CMDA, the first respondent directed the petitioners, vide order dated 31.05.2022 to carryout rectifications and to obtain a revised plan from the Corporation of Chennai. The petitioners filed an application under Section 113(c) of the Tamil Nadu Town and Country Planning Act and the said application is pending. In the meantime, the respondents 4 and 6 issued a notice dated 02.03.2023, directing the petitioners to de-occupy the said building within 15 days.

2.1. Now the petitioners made all arrangements for demolition and re-construction and to carry out the rectification works, as ordered by the first respondent dated 31.05.2022. The petitioners made representation dated 08.03.2023 to the respondent authorities, requesting 4 months time for compliance of the order dated 31.05.2022. However, the respondent authorities insisted for de-occupation. Hence the writ petition.



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3. The learned counsel appearing for the first respondent submitted that, if the petitioners were granted time, they have to strictly comply the orders passed by the first respondent. He further submitted that, if there is any deviation, even after granting time, the authorities concerned will take necessary action under the provisions of Act.

4. The learned counsel appearing for the respondents 2 to 6 also reiterated the above said submission and insisted to carryout the rectification work, as ordered by the first respondent.

5. Considering the request made by the petitioners and also taking into account the submission made by the respondents, we are of the opinion that an opportunity to be given to the petitioners to carry out the rectification work, as ordered by the first respondent. Hence, we inclined to dispose the writ petition with the following directions.

(i). The petitioners are directed to complete the rectification work, as ordered by the first respondent dated 31.05.2022, within four months time from the date of receipt of a copy of this order.



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(ii) If any deviation, it is open to the authorities concerned to proceed

further, in accordance with law \.

6. With the above direction, this writ petition is disposed of. No costs. Consequently, connected writ miscellaneous petitions are closed.

(D.K.K.J.)

(K.G.T.J.)

16.03.2023

Index : Yes/No

Internet : Yes/No

mst

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