



Review Application No.49 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.07.2023

CORAM

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN

AND

THE HONOURABLE Mrs.JUSTICE R.HEMALATHA

Review Application No.49 of 2023

AND

W.M.P.No.10977 of 2023

1.B.Rajendhran

2.R.Manjula

.. Petitioners

Vs.

1.Owners Association

Harington Apartments

No.20, Old No.98 Harington Road

Chetpet, Chennai 600 031

2.The Principal Secretary

Chennai Metropolitan Development Authority

Thalamuthu Natraraja Maligai

Gandhi Irwin Road

Egmore, Chennai 600 008

3.Corporation of Chennai

Rep. by Commissioner of Corporation

Rippon Building

Chennai

.. Respondents



Review Application No.49 of 2023

Review Application filed under Section 114 CPC read with Order XLVII Rule 1 of CPC seeking to review the order dated 02.02.2023 passed by this Court in W.P.No.6004 of 2022.

For Petitioners : Mr.Raja Srinivasan
For R1 : Mr.V.Ramesh
Government Advocate
For R2 : Mr.P.Kumaresan
Additional Advocate General
Assisted by Mr.C.N.Vinobha
Standing Counsel

ORDER

[Order of the Court was made by R.MAHADEVAN, J.]

Seeking to review the order dated 02.02.2023 passed by this court in W.P.No.6004 of 2022, the present review application has been filed by the respondents 4 and 5 in the said writ petition.

2. According to the learned counsel for the review applicants, the writ petition came to be disposed of, based on the representation made by the Government that the appeal filed under section 113A of the Tamil Nadu Town and Country Planning Act, 1971, was dismissed on 11.11.2019, which is not the actual fact, as the review application filed under section 113C is



pending before the Government. It is further submitted that the review applicants have purchased the property being the covered car park of a plinth area of 216 sq.ft. each; and from the date of purchase, they were running a Pharmaceutical Retail Medical Shop and vegetable and fruit shop, without any objection; and that, the writ petitioner was also collecting maintenance from them. The aforesaid facts have not been brought to the notice of this court, at the time of disposal of the writ petition. It is also submitted that the order which is sought to be reviewed herein, has been passed without hearing the review applicants and hence, the same is in violation of the principles of natural justice.

3. On the above contentions, we have heard the learned counsel appearing for the first respondent / writ petitioner and the respondents 2 to 4 and also perused the materials available on record.

4. It is specifically seen from the approved lay out of the year 1981, that the car parking area which is subject matter in dispute in this review application as well as in W.P.No.6004 of 2022, has been shown as an open space car park. Without any approval for construction in the car parking area, the same was covered and some construction were carried on, which



were sought to be removed by the Association. Therefore, we direct the authorities concerned to restore the car parking area, as provided in the approved plan, after following due procedure as laid down in law.

5. The review applicants has also brought to the notice of this court the pleadings made in the affidavit filed in support of the writ petition, more particularly, paragraph 4 at page 19 of the additional typed set dated 13.07.2023, which reads as follows:

"4. I submit that even prior to the purchase in the year 1999 by myself and my wife, the shop portion in the ground floor which was originally shown as garage area in the plan approved dated 06.02.1981 in permit no.51 of 1981 obtained by the original developer was put to use by our vendor Subaida Begam as bunk shop. The apartment consists of 4 floors consisting of 16 flats. In the following flats commercial activities are being carried out and the details are given below in table:

<i>Flat No</i>	<i>Name of the Property Owners</i>	<i>Business Name</i>
4	Mr.A.Abdul Ghani	Madras Hydraluic Ltd (R)
5	Mr.T.Ramarao	Madras Hydraluic Ltd (O)
11	Mr.Orri	M/s.Ghana Jewellery (O)
12	Mr.Seethal	Mhetras Design Interior Decorators (R)
14	Mr.Bala	M/s. Lotus Real Estates (O)
16	Mr.Orri	Boos Enterprises (O)

Till date, no action has been taken against them.



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6. In view of the specific allegation made against the individual flat owners, who purchased residential area and subsequently, changed it into commercial one, which is against the law, this court directs the authorities concerned to remove such illegal commercial establishments, if any, as per law, after providing opportunity of hearing to all the parties, within a period of two weeks, and thereafter, file action taken report before this Court.

7. With the above directions, this review application stands disposed of. No costs. Connected miscellaneous petition is closed.

Post this matter after two weeks "for reporting compliance".

[R.M.D., J.] [R.H., J.]
31.07.2023

Neutral Citation : Yes/No
gya

To
1.The Principal Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natraraja Maligai
Gandhi Irwin Road
Egmore, Chennai 600 008

2.Commissioner of Corporation
Rippon Building, Chennai

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