



W.P.No.9674 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

W.P.No.9674 of 2019
and
W.M.P.Nos.10286, 10288 and 35380 of 2019

1.K.Sathish Kumar
2.D.Subashini

.. Petitioners

Vs.

- 1.The Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai – 600 009.
- 2.The Member Secretary,
Chennai Metropolitan Development Authority,
Chennai – 600 008.
- 3.The Commissioner,
Corporation of Greater Chennai,
Chennai – 600 003.
- 4.The Executive Engineer (Enforcement-Region Central),
Corporation of Chennai, Regional Office-Central,
2nd Cross Street (East), Pulla Avenue,
Shenoy Nagar, Chennai – 600 030.
- 5.The Assistant Executive Engineer,
(Enforcement – Region Central),
Corporation of Chennai, Regional Office-Central,
2nd Cross Street (East), Pulla Avenue,
Shenoy Nagar, Chennai – 600 030.



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6. The Assistant Engineer (Division-71),
Corporation of Chennai,
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 3rd respondent to re-inspect the 1st and 2nd floor of the flat at New No.32, Old No.59, Krishnadoss Road, Perambur, Chennai – 600012 pursuant to the Letter No.12252/UD-VII(1)/2017-4, dated 12.01.2018 and consequently drop the enforcement action.

For Petitioners	: Mr.S.Karthikeyan for Mr.K.V.Sajeev Kumar
For R1	: Mrs.R.L.Karthika Government Advocate
For R2	: Mr.C.N.Vinobha Standing Counsel (CMDA)
For R3 to R6	: Mr.D.B.R.Prabhu Standing Counsel

ORDER

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

The Writ Petition is filed for a direction to the 3rd respondent to re-inspect the 1st and 2nd floor of the Flat at New No.32, Old No.59, Krishnadoss Road, Perambur, Chennai – 600012 pursuant to the Letter No.12252/UD-VII(1)/2017-4, dated 12.01.2018 and consequently drop the enforcement action.



2. Heard Mr.S.Karthikeyan, learned counsel appearing for the petitioners, Mrs.R.L.Karthika, learned Government Advocate appearing for the 1st respondent, Mr.C.N.Vinobha, learned Standing Counsel appearing for the 2nd respondent as well as Mr.D.B.R.Prabhu, learned Standing Counsel appearing for the respondents 3 to 6 and perused the entire materials on record.

3. According to the petitioners, they are Joint Owners of Flat No.F1, Old No.59, New No.32, Krishnadass Road, Perambur, Chennai and they purchased the said flat from the builder by the Sale Deed dated 26.03.2014. The builder has constructed the flat in deviation from the approved plan. After various proceedings, the 1st respondent by the order dated 12.01.2018 directed the Officials of the Corporation to re-inspect the flat in question and if petitioners have rectified the deviation, directed to drop the proceedings and if rectification is not done, directed to proceed further for demolition.

4. The learned counsel appearing for the petitioner submitted that the Officials of the 3rd respondent has not re-inspected the property as per the order of the 1st respondent dated 12.01.2018. Hence, the petitioners



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have filed the present writ petition.

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5. Mr.D.B.R.Prabhu, learned Standing Counsel appearing for the respondents 3 to 6 submitted that on 03.02.2023, the Officials of the Corporation went for inspection but the flat of the petitioners was locked and in view of the same, the officials could not inspect the flat in question.

6. The 4th respondent has filed counter affidavit. In the counter affidavit it has been stated that the petitioners rectified the deviation only in the stilt floor and not carried on the rectification in the first and second floors.

7. When the writ petition was taken up for hearing on 12.09.2019, this Court passed the following order:-

“Dr.C.Ravichandran, the learned counsel for Chennai Corporation submitted that four weeks time may be granted to re-inspect the property in question and the petitioner may be directed to give a representation along with requisite documents, including the letter dated 29.08.2016 of the Housing and Urban Development



Department, in terms of the earlier order of this Court dated 23.11.2016 in W.P.No.41011 of 2016.

2. The petitioner may, accordingly, submit a representation along with requisite documents, including the letter dated 29.08.2016 of the Housing and Urban Development Department, to the Corporation and the respondent Corporation is directed to carry out reinspection and submit a report to this Court within a period of four weeks from the petitioner carrying out the requisite modification to bring the construction in question in accordance with the sanctioned plan.

3. The petitioner may carryout modification within a period of eight weeks of de-sealing, which may be done by the Corporation within a period of one week from today and the report of the Corporation about the construction being done in accordance with the sanctioned plan may thereafter be filed within the next four weeks.

4. Let the matter be listed on 07.01.2020 for report of the Commissioner.”

8. The petitioners filed W.M.P.No.35380 of 2019 for extension of time on the ground that due to rainy season the Engineer who was engaged by them to rectify the defects could not complete the work and prayed for extension of time.



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9. Considering the above rival submissions of the learned counsel appearing for the petitioners and learned Standing Counsel appearing for the respondents 3 to 6 and earlier order of this Court, the petitioners are given three weeks time to rectify the deviation in the first and second floors, failing which, the respondents 3 to 6 are directed to re-inspect the property in question after three weeks and if petitioners fail to rectify the deviation work, the respondents 3 to 6 shall take action as per the earlier Lock and Seal and De-occupation Notice dated 24.04.2015 issued by the Executive Engineer (Enforcement-Region Central), Corporation of Chennai/the 4th respondent herein.

10. With the above direction, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

(V.M.V., J) (K.K.R.K., J)
07.02.2023

Index : Yes / No
Neutral Citation : Yes / No
dm



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To

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