



WEB COPY



W.P.No.12171 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

W.P.No.12171 of 2018
and W.M.P.Nos.14201 & 21553 of 2018

1.G.K.Pattery

2.Theresa Pattery

.. Petitioners

Vs.

1.The Member Secretary
Chennai Metropolitan
Development Authority
Thalamuthu Natarajan Buildings
No.1, Gandhi Irwin Road
Egmore, Chennai-600 008.

2.The Commissioner
Corporation of Chennai
Ripon Buildings
E.V.R.Periyar Road
Park Town
Chennai-600 003.

3.The Zonal Officer
Zone 8
Corporation of Chennai
Pulla Reddy Avenue
Shenoy Nagar, Chennai-600 030.



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4.The Executive Engineer
Corporation of Chennai
Pulla Reddy Avenue
Shenoy Nagar, Chennai-600 030.

5.Ravi Mehra's Delhi Hotel
(Kellys Branch)
Old No.7, New No.13
Balfour Road, Kellys
Kilpauk, Chennai-600 010.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents 1 & 2 to stop the unauthorised use of the premises Old No.7, New No.13, Balfour Road, Kilpauk, Chennai-600 010 by the 5th respondent in respect of the sanctioned plan P.P.No.8988 vide file No.B3/14714/2014 approved on 31.03.2015 and consequently, direct the 2nd respondent as the enforcing authority to take penal action in accordance with law against the 5th respondent.

For Petitioners	: Mr.T.V.Sekar
For R1	: Mr.C.N.Vinobha Standing Counsel
For R2 to R4	: Mr.A.C.Manibharathi Standing Counsel
For R5	: Ms.Gopika Nambiar for Mr.Govind Chandrasekar



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ORDER

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

The petitioners have come out with the present Writ Petition for a direction to the respondents 1 & 2 to stop the unauthorised use of the premises at Old No.7, New No.13, Balfour Road, Kilpauk, Chennai-600 010 by the 5th respondent in respect of the sanctioned plan approved on 31.03.2015 and consequently, a direction to the 2nd respondent as the enforcing authority to take penal action against the 5th respondent in accordance with law.

2. Heard the learned counsel appearing for the petitioners as well as the learned Standing Counsel appearing for the 1st respondent, respondents 2 to 4 and learned counsel appearing for the 5th respondent and perused the entire materials on record.

3. According to the petitioners, the 5th respondent has obtained planning permission for putting up office premises, but he is running restaurant in all the three floors of the buildings. Further the 5th respondent has not taken proper steps for avoiding air and noise pollution and petitioners are put to great inconvenience.



4. The 5th respondent has filed an affidavit stating that after the complaint of the petitioners, the 3rd respondent issued notice under Section 56 of the Tamil Nadu Town and Country Planning Act, 1971, dated 27.02.2018. Challenging the said notice, the petitioners filed special revision under Section 80A of the Tamil Nadu Town and Country Planning Act before the Government. The petitioners also filed W.P.No.8801 of 2018. This Court by the order dated 12.04.2018 directed the 1st respondent to dispose of the special revision filed by the petitioners and restrained the respondents herein from locking and sealing of the premises. According to the 5th respondent, pending revision, the 5th respondent filed an application for revised plan on 07.06.2018 to the 3rd respondent and obtained permission for construction of basement floor (part) + stilt + 3 floors for running restaurant as well as Tutorial Institute. The revised plan was approved and the 1st respondent issued completion certificate on 05.10.2018.

5. The grievance of the petitioners is that without following the rules and regulations for granting permission to run a restaurant, the 5th respondent is permitted to run restaurant which causes air and noise pollution and causes great inconvenience to the petitioners. The



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Corporation filed status report stating that the Officials of the Corporation inspected the premises and found that buildings put up by the 5th respondent are as per the approved plan without any deviation and 1st respondent has also issued completion certificate in the year 2018. The 5th respondent is running a hotel after obtaining trade license from the Revenue Department of the Greater Chennai Corporation.

6. From the documents filed by the Corporation, it is seen that 5th respondent has applied for revised plan and the revised plan was approved for construction of restaurant as well as Tutorial Institute and the 1st respondent also issued completion certificate on 05.10.2018. The Corporation also produced a copy of the license, which shows renewal of license was issued on 17.03.2023 which expires on 31.03.2024. In view of the above materials, we see no deviation from the approved plan.

7. Learned counsel appearing for the petitioners contended that 3rd floor of the buildings is not used by the 5th respondent as per the approved plan. In the mid night, the employees of the restaurant are using the 3rd floor as residence and making noise.



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8. In view of the above submissions, the 5th respondent is directed to run the business strictly in accordance with law and within the permitted hours. The respondents 2 to 4 are directed to inspect the property in question and if there is any air and noise pollution, take appropriate proceedings after issuing notice to the petitioners as well as 5th respondent.

9. With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

(V.M.V., J) (V.L.N., J)

11.04.2023

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Index : Yes / No
Neutral Citation : Yes / No

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