



WEB COPY



W.P.No.11823 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

Writ Petition No.11823 of 2023

P.Sridharan

.. Petitioner

Vs.

1.Chennai Metropolitan Development Authority
Represented by its Member Secretary
Thalamuthu Maligai Buildings
Egmore, Chennai-600 008.

2.The Commissioner
Greater Chennai Corporation
Chennai.

3. Zonal Executive Engineer (Zone-VIII)
Door No.368, 2nd cross street
Pulla Avenue
Shenoy Nagar, Chennai-600 030.

4.A.P.Chelvam

5.P.Palani @ Palanikani

.. 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



W.P.No.11823 of 2023

respondents to take necessary action against the unauthorised construction at L-37 Block, 1st main road, Anna Nagar East, Chennai-600 102 by considering the petitioner's representation dated 18.01.2023.

For Petitioner : Mr.S.Karthikeyan

For R1 : Mr.P.Sesabalan Raja
for Mr.R.Sivakumar

For R2 & R3 : Mr.D.B.R.Prabhu
Standing Counsel

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 necessary action against the unauthorised construction at L-37 Block, 1st main road, Anna Nagar East, Chennai-600 102 by considering the petitioner's representation dated 18.01.2023.

2. According to the petitioner, his wife is having 1/6th undivided share in the land along with plinth area and also flat in second floor. All the flats were in dilapidated condition and they have entered into joint



W.P.No.11823 of 2023

venture agreement with one A.P.Chelvam, S/o.Ayyanar, the 4th respondent herein and also executed power of attorney in favour 5th respondent for filing applications before the appropriate authority for obtaining license and permission for construction. The respondents 4 & 5 have put up construction in violation of approved plan and also encroached the road portion and constructed. The petitioner's wife cancelled the power of attorney. The respondents 4 & 5 have filed civil suit challenging the cancellation of power of attorney suppressing the joint venture agreement. The petitioner's wife gave several complaints to the respondents 1 to 3 as well as Commissioner of Police. The 1st respondent by letters dated 17.01.2013, 16.07.2014 and 25.07.2020 instructed the respondents 2 & 3 to take necessary action on the complaint given by the petitioner and his wife. The petitioner filed W.P.No.11898 of 2022. As per the orders of this Court, the respondents 2 & 3 inspected the property and issued notice dated 08.06.2022 under Sections 56 & 57 of the Tamil Nadu Town and Country Planning Act, 1971. Subsequently, the respondents 4 & 5 have not taken any steps to rectify the defects. The respondents 2 & 3 also did not take any further proceedings in pursuant to the notice dated 08.06.2022 issued under Sections 56 & 57 of the Tamil Nadu Town and Country Planning Act, 1971. Therefore, the



petitioner has given representation dated 18.01.2023 to the respondents 2 & 3. Since no action has been taken, the petitioner has come out with the present Writ Petition.

3. Ms.Aiyshwarya K.Sivasubramanian, learned counsel appearing for the occupants namely, (1) J.Prema, (2) V.Nallendran (3) P.S.Seetharaman (4) M.K.Rajan (5) Nagesh R. (6) Muthuraman (7) Ramesh & (8) Karmegam submitted that before taking any action, the co-owners/occupants may also be given opportunity of hearing by the respondents 2 & 3 and prayed for passing suitable orders.

4. Mr.D.B.R.Prabhu, learned Standing Counsel appearing for the respondents 2 & 3 submitted that the respondents 2 & 3 will take further proceedings in pursuant to the notice dated 08.06.2022 after giving opportunity of hearing to the occupants as well as petitioner and respondents 4 & 5 and prayed for passing suitable orders.

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



6. The grievance of the petitioner is that the respondents 4 & 5 constructed flats in deviation from the approved plan and even though the respondents 2 & 3 issued notice dated 08.06.2022 under Sections 56 & 57 of the Tamil Nadu Town and Country Planning Act, 1971, did not take further action.

7. From the above submissions of the learned counsel appearing for the petitioner and learned Standing Counsel appearing for the respondents 2 & 3, it is seen that the petitioner and his wife are approaching the respondents 1 to 3 from the year 2013. The respondents 2 and 3 have not taken any action on the complaint given by the petitioner and his wife. Thereafter, the 1st respondent has directed the respondents 2 & 3 to take action on the complaint given by the petitioner and his wife by letters dated 17.01.2013, 16.07.2014 and 25.07.2020. Subsequently, the respondents 2 & 3 did not take any action. Only after orders passed by this Court in W.P.No.11898 of 2022, the 3rd respondent has issued notice dated 08.06.2022 under Sections 56 & 57 of the Tamil Nadu Town and Country Planning Act, 1971 and did not proceed further. This shows lethargic attitude of the respondents 1 to 3.



W.P.No.11823 of 2023

8. In view of the above, the respondents 2 & 3 are directed to inspect the property in question within seven (7) days from the date of receipt of a copy of this order after issuing notice to the petitioner, occupants of the property viz., (1) J.Prema, (2) V.Nallendran (3) P.S.Seetharaman (4) M.K.Rajan (5) Nagesh R. (6) Muthuraman (7) Ramesh & (8) Karmegam and respondents 4 & 5 and if there is any unauthorised construction, take appropriate proceedings as per the earlier notice dated 08.06.2022, within a period of four weeks and file a report before this Court on 12.06.2023.

9. With the above directions, the Writ Petition is disposed of. No costs.

Post this matter **“For reporting compliance”** on 12.06.2023.

(V.M.V., J) (V.L.N., J)
26.04.2023

Index : Yes / No
Neutral Citation : Yes / No

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W.P.No.11823 of 2023

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and
V.LAKSHMINARAYANAN,J.**

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