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W.P.No.18313 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2023

CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MRS. JUSTICE N.MALA**

W.P.No. 18313 of 2023

M/s.Kishore Kumar Gokaldas HUF
Marble Arch, Ground Floor
No.5, Bishop Wallers Avenue East,
Mylapore, Chennai - 600004.

.....Petitioner

vs

1.The Secretary to Government
Housing and Urban Development Department
Secretariat, Fort St. George,
Chennai 600 009.

2. The Commissioner
The Greater Chennai Corporation
Ripon Building, Chennai - 600 003.

3.Zonal Executive Engineer (Zone XII)
No.1, New Street, Alandur,
Chennai - 600 016.

4.Shirley Devaraj

5.Satsh Devaraj

....Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the 2nd respondent to take appropriate action in pursuant to 1st respondent's final order bearing No.8363/UD-VII(1)/2022-5 dated 18.08.2022 and letter dated 24.02.2023 bearing letter No.EC/S-II/5423/2022 issued by CMDA to the 2nd respondent and further take appropriate action under the Town and Country Planning Act, 1971 against the 4th and 5th respondent's building in the subject property at Survey No.27/11A.

For Petitioner : Mr.B.Deepak Narayanan

For Respondents : Mr.E.Vijay Anand for R1
Additional Government Pleader
Mr.D.B.R.Prabhu for R2 and R3
Standing Counsel



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3. According to the petitioner, the respondents 4 and 5 constructed the building in gross violation of the approved building plan, whereby, they had constructed their building with inadequate setback and thus, prevented availability of light and free circulation of air to the petitioner's property. Thereafter, the petitioner made several representations to the concerned authorities to take appropriate action for demolition of the deviated portion of the construction put up by R4 and R5.

For which, the 3rd respondent vide his letter dated 12.05.2022 reverted back that a lock and seal notice has been issued to the 4th and 5th respondents under Section 57 read with Section 85 of the Town and Country Planning Act 1971 as amended by Act 61 of 2008.

4. The petitioner got notified that the respondents 4 and 5 had challenged the letter dated 12.05.2022, issued by the 3rd respondent by way of a Revision Petition before the Hon'ble Secretary to Government, Housing and Urban Development. The first respondent had passed a final order bearing Letter No.8363/UD-VII (1)/2022-5 dated 18.08.2022 directing the 4th and 5th respondents to rectify the deviation within a period of 30 days and further directed the 2nd respondent to inspect the



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premises. Pursuant to the said order, no action was taken by the 4th and 5th respondents. Aggrieved by the same, the present writ petition is filed.

5. When the matter came up for hearing on 22.08.2023, this Court had directed the learned Standing Counsel appearing for Greater Chennai Corporation to file fresh status report by mentioning the rectifications of the deviations.

6. In pursuance to the said order of this Court, the 3rd respondent filed the fresh status report, stating that, *the inspection was conducted after due notice to all the parties concerned and the excessive projection was cut down and the deviation was partially rectified from 57.72 Sq.mt to 0.46 sq.m as per the revised plan and this minor deviation falls within the purview of Government limits and norms as per the Tamilnadu Combined Development and buildings Rules 2019.* After rectification of the deviations, the new revised plan was approved vide Building plan No.BA/WDCN12/08495/2022, Plan Submission No.PPA/WDCN12/11328/2022.

7. As the status report categorically states that the deviation has



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been rectified and the building is as per the revised approved plan, we are inclined to accept the Status Report dated 07.09.2023.

8. In view of the above discussion, since the deviation is rectified and the building is as per the approved plan, no further adjudication is necessary in this writ petition.

9. Accordingly, this Writ Petition is closed. No costs.

(J.N.B,J.) (N.M., J.)
14.09.2023

Index : Yes / No
msv

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