



W.P.No.15275 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mrs.JUSTICE N.MALA

W.P.No.15275 of 2021

Yamuna Homes Flat Owner's Association,
rep. by its Secretary,
Vaidiyanathan,
4th Street, Parameswari Nagar,
Adyar, Chennai – 600 010

.... Petitioner

vs

1. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan House,
No.01, Gandhi Irwin Road,
Ansari Estate, Egmore,
Chennai – 600 008.

2. The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai – 600 003.

3. The Assistant Engineer,
TANGEDCO,
5th Street, Padmanabhan Nagar,
Behind Adyar Post Office,
Adyar, Chennai – 600 020.



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4. S.Dharmalingam,
S/o Subbaraya Gounder,
Flat A-1 & A-2, Yamuna Homes,
Parameswari Nagar, 4th Street,
Adyar,
Chennai – 600 020.

5. Yamuna Dharmalingam,
W/o S.Dharmalingam,
Flat A-1 & A-2, Yamuna Homes,
Parameswari Nagar, 4th Street,
Adyar,
Chennai – 600 020.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the 1st respondent to inspect the property situated in Yamuna Homes, Parameswari Nagar, 4th Street, Adyar, Chennai – 600 020 and demolish the unauthorized constructed area and consequently direct the 2nd and 3rd respondents to take appropriate action against the 4th and 5th respondents for not obtaining license to run the Hostel and using the Electricity connection for commercial purpose.

For Petitioner : Mr.S.Ilamvaludhi

For Respondents : Mr.V.Sudalaiselvan,
Standing Counsel for CMDA
for R1
Mr.D.B.R.Prabu
Standing Counsel for Corporation
for R2
Mr.Jaivenkatesh,
Standing Counsel for R3
Mr.V.Ramamurthy for R4 & R5



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ORDER

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(Order of the Court was made by J.NISHA BANU, J.,)

This Writ Petition has been filed to issue a Writ of Mandamus to direct the 1st respondent to inspect the property situated in Yamuna Homes, Parameswari Nagar, 4th Street, Adyar, Chennai – 600 020 and demolish the unauthorized constructed area and consequently direct the 2nd and 3rd respondents to take appropriate action against the 4th and 5th respondents for not obtaining license to run the Hostel and using the Electricity connection for commercial purpose.

2. The case of the petitioner Association is that all the members of the Association purchased the flats from one S.Dharmalingam who had constructed the flats. The original planning permission reflects that Yamuna Homes will have Ground Floor with one plus and consisting of 36 flats. There was an agreement with the said Dharmalingam/ promoter of Yamuna Homes that he will not make any construction in the said Yamuna flats more than the obtained permission. The said Dharmalingam, who had sold the entire flats, trespassed in the premises and constructed 13 flats in the 3rd floor without permission from the existing flat owners and using the top entire floor as 'paying guest flats' (Hostel) and it was leased out to one Suresh, who is using it as a lodge and causing more hindrance and mental agony to the flat owners.



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Hence, the present writ petition.

3. Heard the learned counsel appearing on either side and perused the materials available on records.

4. Learned counsel for the petitioner would state that out of 50 flats only 37 flats are approved and 13 flats are constructed without any planning permission and 4th respondent is misusing the residential flats as commercial flats. Though the petitioner Association made several complaints, no action has been taken by the authorities.

5. Learned Standing Counsel appearing for the CMDA, pointing out to paragraph No.9 of the counter affidavit, would state that 13 dwelling Units constructed on the 3rd floor are unauthorized. He would further submit that since the construction made at the site is in contravention to the approval accorded, Demolition Notice under Section 56 read with Section 85 of Tamil Nadu Town & Country Planning Act, 1971 was issued to the Builder S.Dharmalingam and a copy was also marked to all the occupiers by CMDA vide letter dated 12.01.1998.

5. In view of the above, the 1st and 2nd respondents are directed to initiate further enforcement action as against the unauthorised construction made in the 3rd floor of the premises by the 4th and 5th respondents and



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conclude the enforcement proceedings in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. Accordingly, the Writ Petition is disposed of. No costs.

(J.N.B., J.) (N.M., J.)
25.09.2023

vsi

Index : Yes / No

Internet : Yes / No

Neutral citation : Yes / No

To

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