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W.P.No.20689 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2023

CORAM

**THE HONOURABLE MRS. JUSTICE J.NISHA BANU
AND
THE HONOURABLE MRS. JUSTICE N.MALA**

W.P.No.20689 of 2023

B.Magesh

..Petitioner

Vs.

1. State of Tamil Nadu,
rep. By Housing Secretary,
Housing and Urban Department,
Secretariat,
Chennai – 600 009.
- 2 The Commissioner,
Corporation of Chennai,
Rippon Building, EVR Periyar Salai,
Chennai – 600 003.
3. The Executive Engineer-II,
Zone-13, Greater Chennai Corporation,
Adyar,
Chennai – 600 020.
4. The Assistant Executive Engineer,
Unit 39, Greater Chennai Corporation,
Adyar,
Chennai – 600 020.



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5. The Assistant Engineer,
Division – 178,
Greater Chennai Corporation,
Adyar,
Chennai – 600 020.

6. Ever Star Homes,
Represented by its Partners,
No.37-F, Velachery Main Road,
Vijaya Nagar,
Velachery,
Chennai – 600 042.

7. P.Devaraj,
S/o Parthasarathy,
Partner of M/s Ever Star Homes

8. B.Selvakumar,
S/o Balakrishnan,
Partner of M/s. Ever Star Homes

Respondents 7 & 8 having office
at No.37-F, Velachery Main Road,
Vijaya Nagar, Velachery,
Chennai – 600 042.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents 3 to 5 to take further enforcement action pursuant to the order dated 21.10.2021 in Ref.No.Div.178/001/2021 passed by the 1st respondent based on the representation of the petitioner dated 05.12.2021.

For Petitioner

: Mr.V.Ravindran
for PVS Giridhar Associates



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For Respondents : Mr.E.Vijayanand
Additional Government Pleader
for R1
Mr.D.B.R.Prabu
Standing Counsel for R2 to R5
No appearance for R6 to R8

ORDER

(The 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 respondents 3 to 5 to take further enforcement action pursuant to the order dated 21.10.2021 in Ref.No.Div.178/001/2021 passed by the 1st respondent based on the representation of the petitioner dated 05.12.2021.

2. The case of the petitioner is that the 6th respondent, viz., Ever Star Homes and its partners, 7th and 8th respondents trespassed into his property and claimed ownership over his property by putting up a construction without obtaining any Planning permission, sanction plan and approval plan from the Greater Chennai Corporation. Therefore, the petitioner lodged a complaint before the Greater Chennai Corporation. A lock and seal notice dated 21.10.2021 was issued to the 6th respondent directing the 6th respondent to restore the land in 30 days from the date of notice, failing which, action will be taken under sections 56 & 57 of



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TN Town and Country Planning Act, 1971. Since the 6th respondent failed to comply with the said notice, de-occupation notice dated 22.12.2021 was issued to de-occupy the said premises within 10 days from the date of receipt of the said notice. The 6th respondent preferred an appeal before the 1st respondent under section 80A of TN Town and Country Planning Act, against the lock and seal notice. In the meanwhile, the 6th respondent filed a writ petition in W.P.No.452 of 2022 and another W.P.No.5530 of 2022 before this Court and this Court disposed of W.P.No.5530/2022 by order dated 11.03.2022 directing the 1st respondent therein to consider the appeal and dispose of the same within three months. Subsequently, the 1st respondent dismissed the revision petition filed by the 6th respondent under Section 80-A of TN Town and Country Planning Act, 1971, observing that the ground floor + 2 floors building that was under construction was unauthorised and close to the High Tension line which is dangerous and prone to accident. As the respondents 6 to 8 have put up illegal construction, the petitioner had sent representation to the 1st respondent to initiate action. Since no action has been taken, the present writ petition was filed.

3. Heard the learned counsel for the petitioner and the learned



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Additional Government Pleader appearing for the 1st respondent and the learned Standing Counsel appearing for the 2nd to 5th respondents. Though the respondents 6 to 8 were served, they neither appeared in person nor through counsel.

4. A status report dated 17.07.2023 has been filed by the learned Standing Counsel appearing for the respondent Corporation stating that the writ petition filed by the 7th respondent has been disposed of on 11.03.2022 by directing the 1st respondent to dispose of the appeal filed by the petitioner/7th respondent herein. As per the direction of this Court, the appeal filed by the 7th respondent was considered and after careful consideration of the records and facts, the Government hereby dismissed the revision petition filed by Thiru.P.Devaraj under section 80A of Tamil Nadu Town and Country Planning Act, 1971 on 20.10.2022 observing that the Ground Floor + 2 Floors building is constructed unauthorisedly and close to the High Tension line which is dangerous and prone to accident.. The 1st respondent informed to Commissioner Greater Chennai Corporation to dispose the pending application submitted by the 7th respondent for demolition and reconstruction of Ground + 3 Floors building and to proceed further action on the building



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if planning permission is not granted for the building.

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5. However, it is stated in the status report that on verification of records, it was found that the 7th respondent did not even apply for demolition and reconstruction. Further, the 7th respondent had given a false statement before the Additional Secretary (Technical) Housing and Urban Development Department as if he had submitted application for demolition and reconstruction and the same was pending with the Greater Chennai Corporation. Subsequently, further enforcement action had been taken against the building in question at Plot No.37, Devikarumari Amman Nagar 1st Street, Velacherry, Chennai – 600 042 by locking and sealing the same on 04.01.2023 and till date the building in question is under lock and seal.

6. Considering the averments made in the status report, this Court directs the respondent Corporation to initiate further enforcement action as against the respondents 6 to 8 in accordance with law. Accordingly, the Writ Petition is disposed of. No costs.

(J.N.B,J.) (N.M., J.)
24.08.2023

Index : Yes / No
Speaking/Non-speaking order
vsi



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