



WEB COPY



W.P.No.15797 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P. DHANABAL

W.P.No.15797 of 2023 and

WMP No.15237,15238 of 2023

1. A.Kannan

2. S.Saravananaraj

... Petitioners

Vs.

1. The Member Secretary,
Chennai Metropolitan Development Authority,
“ Thalamuthu Natarajan Building”,
No.1, Gandhi Irwin Road, Egmore, Chennai 600 008.

2. The Commissioner, Greater Chennai Corporation,
Ripon Building, Chennai.

3. The Zonal Officer, Zone-VII,
Greater Chennai Corporation,
Ambattur, Chennai 600 053.

4. The Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai 600 007.

5. The Le Orchard Residents Welfare Association,
Rep. by its Secretary, Padi Kuppam Road,
Anna Nagar West, Chennai 600 040.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 to 3 to forbear the 5th respondent from putting up any construction violating the planning permission granted by the first respondent in Planning Permission No.B/ SPL.BLDG/63A/D/2005 dated 25.02.2005 particularly in the nature of temple, within the premises of “ Le Orchard Apartment” Padi Kuppam Road/ Anna Nagar West, Chennai 600 040.

For Petitioners : Mr.J.Deliban

For Respondents : Mr.R.Sivakumar for R1

Mr.P.Prithivi Chopda,
Standing Counsel for R2 to R4

Mr.S.I.Sharukumar for F5

ORDER

(Order of the Court was delivered by D.KRISHNAKUMAR, J.)

This Writ Petition has been filed to direct the respondents 1 to 3 to forbear the 5th respondent from putting up any construction violating the planning permission granted by the first respondent in Planning Permission No.B/ SPL.BLDG/63A/D/2005 dated 25.02.2005 particularly in the nature



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of temple, within the premises of “ Le Orchard Apartment” Padi Kuppam

Road/ Anna Nagar West, Chennai 600 040.

2. The first petitioner is owner of the property at door No.24, Daffodi, and the wife of the 2nd petitioner is owner of door No.22, Rose, Le Orchard Apartments, Padi Kuppam Road, Anna Nagar West, Chennai. The 5th respondent Association, through a general meeting dated 30.04.2023, decided to construct a temple at the place, which has been earmarked as two-wheeler parking in the sanctioned plan dated 25.02.2005 and for the same, they have stored bricks and other construction materials. Therefore, the petitioners made a representation on 15.05.02023 to the respondents 1 to 3 to take suitable action. But, no action has been taken. Hence the writ petition.

3. The third respondent filed counter affidavit stating that, with respect to the building in question at door No.24, Daffodi, Le Orchard Apartment, Padi Kuppam Road, Anna Nagar, planning permission was granted by the first respondent herein, vide order dated 28.02.2005.



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Further, as per the circular in Proc.No.RT/19948/2011, dated 02.12.2016, the CMDA shall take enforcement action under Section 56 and 57 of the Tamil Nadu Town and Country Planning Act, on those cases, for which CMDA has issued planning permission. Therefore, with regard to the alleged construction, the CMDA is the competent authority to take action.

4. The learned Standing Counsel appearing for the Corporation submitted that Stop work notice was issued on 19.05.2023 to the fifth respondent under Section 56 and 57 of the Tamil Nadu Town and Country Planning Act, by directing to produce the approved plan in original and further action also will be proceeded in accordance with law. He has also produced the above said Stop work notice before this Court.

5. At this juncture, the learned counsel appearing for the 5th respondent submitted that, the fifth respondent is taking steps to prefer the Appeal, as against the above said Stop work notice.



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6. From the above submission made by the counsel on either side, it is clear that, as of now, no appeal has been preferred by the 5th respondent against the Stop work notice issued passed by the authorities concerned. Therefore, there is no legal bar on the side of the official concerned to take further action against the unauthorized construction made by the fifth respondent. Therefore, the first respondent is directed to take further action against the unauthorised construction, in accordance with law, without any further delay.

7. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

(D.K.K.J.)

(P.D.B.J.)

14.06.2023

Internet: Yes/No

Index : Yes/No

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