



W.P.No.17682 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P. DHANABAL

W.P.No.17682 of 2023

M.D.Lokeswari

... Petitioner

Vs.

1. The Commissioner, Corporation of Chennai,
Rippon Buildings, Chennai.
2. The Chennai Metropolitan Development Authority,
Thalamuthu Maligai, Egmore,
Chennai.
3. The Assistant Engineer, Zone X,
No.12, Masilamani Street, Pondy Bazaar,
T.Nagar, Chennai-17.
4. G.Sathyannarayana Bothra.
5. S.Srilata Bhotra
6. S.Vishal Bothra
7. S.Kunal Bothra
8. Smoke Hub Barbeque-T.Nagar, GPS Food factory,
rep. by its Managing Director, Varun Shankar,
4th floor, Door Nos. 5 & 6, Prakasam Road,
T.Nagar, Chennai 600 017

... 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 consider the representation of the petitioner dated 21.04.2023 and consequently, direct the respondents 1 to 3 to remove the unauthorized construction put up by the respondents 4 to 8 in basement, common passage, IV floor and V floor at Door No.5 & 6, Indira Arcade, Prakasam Road, T.Nagar, Chennai-17.

For Petitioner : Mr.A.B.Pathima Sulthana

For Respondents : Mr.D.B.R.Prabu
Standing Counsel for R1 and R3

Mr.R.Sivakumar,
Standing Counsel for R2

ORDER

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

This Writ Petition has been filed to direct the the respondents 1 to 3 to consider the representation of the petitioner dated 21.04.2023 and consequently, direct the respondents 1 to 3 to remove the unauthorized construction put up by the fourth respondents in basement, common passage, IV floor and V floor at Door No.5 & 6, Indira Arcade, Prakasam Road, T.Nagar, Chennai-17.



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2. The petitioner is owner of the part of the II floor portion, measuring about 4300 sq.ft. situated at No.5 & 6 Indira Arcade, Prakasam Road, T.Nagar, Chennai 600 017. The builder had obtained approval for construction of basement, ground floor, I floor, II floor and III floor and as per the approved plan, the basement area was earmarked for car parking exclusively, and IV floor is open space. In such circumstance, the respondents 4 to 7, with the help of official respondent 1 to 3, had constructed IV and V floor unauthorizedly and hence, the father of the petitioner had filed W.P.No.21661 of 2017 to remove the unauthorized construction. In the above writ petition, the respondents 4 to 7 agreed to rectify the deviated construction with regard to basement. Further with regard to IV floor, they informed that they had applied for regularization. In view of the above submission, this Court had directed the respondents 4 to 7 to rectify the defects in respect of the violated portions of the building in question on or before 08.06.2018.

2.1 Despite repeated warnings and order of this Court, the respondents 4 to 7 have not removed the encroachments, but have



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encroached the entire basement and converted it as a godown and let it out on rent for keeping the huge garment boxes of Zudio and the basement become useless to park, even a single car, except few bikes. Further, they encroached the common passage in the ground floor on the 3 sides of the building illegally for the benefit of Smoke Hub Barbeque-T-Nagar. Also, they constructed toilets in the common passages for the use of 8th respondent, thereby averting from using the common passages by the other tenants or owners of the building. Therefore, the petitioner made a representation to the respondents 1 to 3 to remove the unauthorized construction, but, no action has been taken. Hence the writ petition.

3. The learned Standing Counsel appearing for Corporation submitted that, if the respondents 4 to 7 have violated the undertaking given by them before this Court in the earlier writ petition and also, constructed the building further, deviating the approved building plan, the authorities concerned will initiate action against them, in accordance with law, without any further delay.



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4. Recording the submission made by the learned Standing Counsel, the second respondent is directed to consider the representation of the petitioner dated 21.04.2023, and pass order on its own merits and in accordance with law, after affording opportunity to the petitioner as well as the respondents 4 to 7, within a period of twelve weeks from the date of receipt of a copy of this order.

5. With the above direction, this writ petition is disposed. No costs.

(D.K.K.J.)

(P.D.B.J.)

15.06.2023

Internet: Yes/No

Index : Yes/No

mst

To

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