



W.P.Nos.19543 of 2019 & 1303 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P. DHANABAL

W.P.Nos.19543 of 2019 & 1303 of 2020

W.P.No.19543 of 2019

M.Ramani

...

Petitioners

versus

- 1.The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai-600 003.
- 2.The Regional Deputy Commissioner (South)
Greater Chennai Corporation,
No.115, Dr.Muthulakshmi Salai,
Adyar,
Chennai-600 020.
- 3.The Zonal Commissioner,
Zone-12, Greater Chennai Corporation,
No.1, New Street,
Alandur,
Chennai – 600 016.



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4.The Executive Engineer,
Zone-12, Greater Chennai Corporation,
No.1, New Street,
Alandur, Chennai- 600 016.

5.The Assistant Engineer,
Zone-12, Greater Chennai Corporation,
No.1, New Street,
Alandur,
Chennai – 600 016.

6. T. Leelavathy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Mandamus, directing the respondents 1 to 5 to demolish the unauthorized construction made by the 6th respondent pursuant to the lock and seal and demolition notice issued to the 6th respondent by initiating immediate action against the 6th respondent under Sub-section (4) of Section 57 of the Town and Country Planning Act, 1971 as amended by Act 61 of 2008 to lock and seal the premises at the western side (rear side) of Plot bearing No.18/40, Paruthivakkam Street, Alandur, Chennai and demolish the same without any further loss of time.

For Petitioner : Mr.V.P.Sengottuvel

For Respondents : Mrs. P.T.Ramadevi
Standing Counsel
for Respondents 1 to 5
Mr.D.Parthasarathy
for sixth respondent



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W.P.No.1303 of 2020

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M.Ramani

...

Petitioners

versus

1.The Additional Secretary (Technical),
Housing and Urban Development Department,
Secretariat,
Chennai-600 016.

2.The Executive Engineer,
Zone-12, Greater Chennai Corporation,
No.1, New Street, Alandur,
Chennai-600 016.

3.The Assistant Executive Engineer,
Zone-12, Greater Chennai Corporation,
No.1, New Street, Alandur,
Chennai- 600 016.

4.The Assistant Engineer,
Zone-12, Greater Chennai Corporation,
No.1, New Street,
Alandur,
Chennai – 600 016.

5. T. Leelavathy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari, calling for the records relating to the order passed by the first respondent vide Letter No.17603/UD-VII(2)/2018-4, dated 05.07.2019 and the Lock and Seal Notice dated 19.07.2018 on the file of the respondents 2 to 4 and to quash the same as null and void



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For Petitioner	: Mr.V.P.Sengottuvel
For Respondents	: Mr.E.Vijay Anand, Additional Government Pleader for first respondent Mrs. P.T.Ramadevi Standing Counsel for Respondents 2 to 4 Mr.D.Parthasarathy for fifth respondent

COMMON ORDER

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

The petitioner in both these writ petitions is one and the same.

2. The petitioner has filed W.P.No.19543 of 2019 for a Mandamus, directing the respondents 1 to 5 to demolish the unauthorized construction made by the 6th respondent pursuant to the lock and seal and demolition notice issued to the 6th respondent by initiating immediate action against the 6th respondent under Sub-section (4) of Section 57 of the Town and Country Planning Act, 1971 as amended by Act 61 of 2008, (hereinafter referred to as the Act of 1971, for the sake of brevity) to lock and seal the premises at the western side (rear side) of Plot bearing No.18/40, Paruthivakkam Street, Alandur, Chennai and demolish the same without any further loss of time.



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3. The petitioner has filed W.P. No.1303 of 2020, for a Certiorari, calling for the records relating to the order passed by the first respondent vide Letter No.17603/UD-VII(2)/2018-4, dated 05.07.2019 and the Lock and Seal Notice dated 19.07.2018 on the file of the respondents 2 to 4 and to quash the same as null and void

4. The parties are referred to as per their ranking in W.P. 19543 of 2019, which is earliest of the two.

5. According to the petitioner, she made a complaint to the Greater Chennai Corporation regarding encroachment and unauthorized construction made in the petitioner's premises by the sixth respondent herein. Pursuant to said complaint, the fourth and fifth respondents had inspected the building and found that there was deviation in the construction made by both the petitioner and the sixth respondent and accordingly issued Lock and Seal Notice dated 19.07.2018 to the petitioner as well to the sixth respondent under Section 57 read with Section 85 of the Act of 1971, by stating as follows:

"3. Hence you are hereby called upon to



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restore the building in compliance with the approved plan within 30 days from the date of receipt of this notice, failing which action will be taken under Sub-Section (4) of Section 57 of the Town and Country Planning Act, 1971 as amended by Act 61 of 2008 to lock and seal the premises so as to stop further construction and to demolish the building as per the approved plan without any further notice to you.”

6. Upon receiving the notice, the petitioner has filed an appeal under Section 80-A of the Act of 1971, before the Government against the lock and seal and demolition notice dated 19.07.2018, issued by the Greater Chennai Corporation. Though the sixth-respondent has not filed any appeal before the Government, she has filed an objection petition on 06.12.2018, to the appeal filed by the petitioner herein under Section 80-A of the Act of 1971. During the course of proceedings under Section 80-A of the Act of 1971, the petitioner was afforded personal hearing on 26.06.2019 along with the objector/sixth by the Additional Secretary (Technical). During the said hearing, the petitioner and the sixth respondent/Objector had agreed to carry out the rectifications in their respective buildings and obtain revised planning permission and requested for time and have furnished written statement to that effect. On considering the written statement filed by



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the petitioner and the the sixth respondent, orders have been passed by the Government directing the petitioner and the sixth respondent to rectify the defects pointed out in the order and three months time was granted to rectify the deviations/violations and to obtain planning permission. Assailing the said order, the present writ petition has been filed before this Court.

7. Learned counsel for the petitioner submits that the sixth respondent has not preferred any appeal before the Government against the Lock and Seal and Demolition notice dated 19.07.2018 and accordingly the same had become final. Therefore, the Corporation ought to have proceeded to lock and seal and demolish the unauthorized construction made by the sixth respondent pursuant to the notice dated 19.07.2018 issued under Section 57 of the Act of 1971.

8. The respondents have not chosen to file counter-affidavit.

9. From the aforesaid facts, it is clear that in the proceedings before the Government, both the petitioner and the objector have made a written statement and based on the assurance given by them



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in the written-statement, the Government in their orders dated 05.07.2019, had granted three months' time to the petitioner and the sixth respondent to rectify the defects in their respective buildings. However, the sixth respondent has not challenged the said order. From a reading of the aforesaid facts, it is clear that there is violation in the construction of the building contrary to the approved plan. Therefore, we are of the view that the said deviation/ unauthorized construction in the aforesaid property in question is in violation of the approved plan. Hence, the respondent authority has to take necessary action for the removal of the unauthorized construction in the property in question. At this juncture, it is expedient to refer the decision of the Hon'ble Supreme Court, **Supertech Limited Vs Emerald Court Owner Resident Welfare Association** & Ors, reported in **2021 10 SCC page 1**, wherein the Hon'ble Supreme Court has held as follows:

"147 From commencement to completion, the process of construction by developers is regulated within the framework of law. The regulatory framework encompasses all stages of construction, including allocation of land, sanctioning of the plan for construction, regulation of the structural integrity of the structures under construction, obtaining clearances from different departments (fire, garden, sewage, etc.), and the issuance of occupation and completion certificates. While the availability of housing stock, especially in metropolitan cities, is necessary to accommodate



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the constant influx of people, it has to be balanced with two crucial considerations – the protection of the environment and the well-being and safety of those who occupy these constructions. The regulation of the entire process is intended to ensure that constructions which will have a severe negative environmental impact are not sanctioned. Hence, when these regulations are brazenly violated by developers, more often than not with the connivance of regulatory authorities, it strikes at the very core of urban planning, thereby directly resulting in an increased harm to the environment and a dilution of safety standards. PART F Hence, illegal construction has to be dealt with strictly to ensure compliance with the rule of law”

10. Therefore, in the light of the above decision of the Hon'ble Supreme Court and in view of the deviations/violations in the construction, we direct the respondent Corporation to take necessary action for removal of the deviation/unauthorized construction in the property in question, within a period of twelve weeks from the date of receipt of a copy of this order.

11. It is for the petitioner to work out her remedy if permissible under law.



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12. With the above directions, the writ petitions stand disposed of. There will be no order as to costs. Consequently, W.M.P.Nos.1564 of 2020 & 19032 of 2019, are closed.

[D.K.K., J.] [P.D.B., J.]
22.06.2023

Index : Yes/No
Neutral Citation : Yes/No
mrn

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D.KRISHNAKUMAR, J.
and
P. DHANABAL, J.

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