



W.P.No.19722 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2023

CORAM

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

W.P.No.19722 of 2023

J.Sekar

.... Petitioner

VS

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

2.Radha Ramesh,
W/o. M.S.Ramesh, Flat No.401, Surendra Homes, Door No.1, Pammal
Main Road, Pallavaram, Chennai - 600 043.

3. Radha Ramesh,
W/o. M.S.Ramesh, Flat No.402, Surendra Homes, Door No.1, Pammal
Main Road, Pallavaram, Chennai - 600 043.

4. Naveen Singh,
Flat No.403, Surendra Homes, Door No.1, Pammal Main Road,
Pallavaram, Chennai - 600 043.

5. Tara,
W/o. G.Srinivasan, Flat No.404, Surendra Homes, Door No.1, Pammal
Main Road, Pallavaram, Chennai -600 043.



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6. R.H.Felix Christy Francis,
Flat No.405, Surendra Homes, Door No.1, Pammal Main Road,
Pallavaram, Chennai -600 043.

7. Vijayalakshmi Jayavelu,
Flat No.406, Surendra Homes, Door No.1, Pammal Main Road,
Pallavaram, Chennai -600 043.

8. A.P.Arumugaraj,
Flat No.407, Surendra Homes, Door No.1, Pammal Main Road,
Pallavaram, Chennai -600 043.

9. Swethambhara,
Flat No.408, Surendra Homes, Door No.1, Pammal Main Road,
Pallavaram, Chennai -600 043.

10. Sunder Ram,
C/o. M.S.Ramesh, Flat No.409, Surendra Homes, Door No.1, Pammal
Main Road, Pallavaram, Chennai -600 043. (R2 TO R10 IMPEADED
VIDE ORDER DT 07.09.2023 MADE IN WMP.23729/2023 IN
WP.19722/2023 BY JNBJ, NMJ)

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondent to remove the unauthorized construction in 4th floor of Surendra Homes in No.1, Pammal Main Road, Pallavaram, Chennai- 600 043 in the light of Locking and Sealing and Demolition Notice in Letter No. EC/ S-I/ 6728/ 2022 dated 02.06.2022 within the time stipulated by this Court.

For Petitioner : Mr.J.Jayakumar

For Respondents : R1- M/s.C.N. Vinobha
Standing Counsel



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RR2 to 4 and RR6 to 10- No Appearance
R-5 – Mr.G.Srinivasan
Party in person

ORDER

(The order of the Court was made by N.MALA,J.)

Writ petition is filed for issuance of a Writ of Mandamus directing the respondent to remove the unauthorised construction in the 4th floor of Surendra Homes, in pursuance of the locking and sealing and demolition Notice in Letter No. EC/ S-I/ 6728/ 2022 dated 02.06.2022.

2. The petitioner is the owner of the flat No.305, in 3rd floor of the residential buildings of Surendra Homes. The petitioner purchased the subject property in the year 2007. As certain unauthorised constructions were put up in the 4th floor in violation of the approved plan, a locking and sealing and demolition notice dated 02.06.2022 was issued to remove the unauthorised portions in the 4th floor.

3. According to the petitioner, inspite of the said notice, the 1st



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respondent had not taken any steps to remove the unauthorised constructions. Hence the petitioner filed the above writ petition for the aforesaid relief.

4. Earlier, the husband of the 5th respondent viz. G.Srinivasan filed a writ petition in W.P.No.25615 of 2021 for the following relief:

“(i) to direct the 1st respondent to ensure that the 2nd respondent apply for issue of Completion Certificate i.r.o. the constructions carried out by him (respondent-2) in Surendra Homes, No.1, Pammal Main Road, Pallavaram, Chennai-43 at his (respondent-2) cost and the Penalties and compounding fee if any charged and Paid by him within Fifteen days of this petition.

(ii) to direct the 1st respondent to issue the Completion Certificate immediately within a reasonable time after condoning/approving the conversion of Open terraces in the Flats 401 to 408 in the Fourth Floor into bedrooms by the 2nd respondent and sold as three bed room Flats, as covered under the exemption cl.1.9. of Annexure-XVIII of DR-2008 of CMDA and cl.(iii) of the Conditions associated with the application of the 2nd respondent dated 29.09.2006.

(iii) to direct the 1st respondent to ensure that the 2nd respondent hand over the unauthorised conversions in the stilt-floor to the Surendra Homes Apartment Owners' Welfare Association (SHAOWA) for conversion of the same into the SHAOWA Office Room and Gymnasium as was originally envisaged under Section 6(3) of the TN Apartment Ownership Act, 1994, at the cost of the 2nd respondent.”



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5. This Court vide order dated 15.12.2022 passed the following order:

"In view of the above submissions made by the parties, the 1st respondent is directed to proceed further based on the lock and seal notice dated 02.06.2022 issued under Sections 56 and 57 read with Section 85 of the Town and Country Planning Act, 1971 and in accordance with law, after considering the reply by all concerns."

6. When the matter was taken up for hearing on 20.09.2023, the 5th respondent contended that the premises was eligible for exemption under Annexure XVIII Rule 1 Sub clause 9 of the Development Regulations. This Court therefore, directed the 1st respondent to clarify and file a report on, whether the disputed premises was eligible for exemption under Annexure XVIII Rule 1 Sub clause 9 of the Development Regulations. The first respondent filed a report on 26.09.2023, stating that the disputed premises was not eligible for exemption under Annexure XVIII Rule 1 Sub clause 9 of the Development Regulation.

7. As this Court had already directed in W.P.No.25615 of 2021 vide order dated 15.12.2022, to take further action in pursuance of the



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lock and seal and demolition notice dated 02.06.2022, strictly speaking no further orders would be necessary. But considering the fact that even after lapse of almost 1 year, no further enforcement action has been taken, we are of a view that a direction should be issued to the 1st respondent to take further enforcement action in accordance with law, within a period of twelve (12) weeks from the date of receipt of a copy of this order.

In view of the above, this Writ Petition is disposed off. There will be no order as to costs.

(J.N.B, J.)

(N.M, J.)

27.09.2023

Index : Yes / No

Internet : Yes / No

Speaking order: Yes/No

Neutral Citation : Yes / No

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



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J. NISHA BANU, J.
and
N.MALA, J.

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