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W.P.Nos.26027, 13897, 13899 and 13901 of 2021
& Rev.A.No.89 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2023

CORAM

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

**W.P.Nos.26027, 13897, 13899 and 13901 of 2021
and Rev.Aplw.No.89 of 2018
and WMP.Nos.14773, 14776, 14778 and 27473 of 2021**

W.P.No.26027 of 2021:

1.S.Sampath

2.S.Sumathi

...Petitioners in W.P.No.26027 of 2021

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-600009

3. A.V.Subha

4.Ratna Sekari

5.V.V.Viswanath

...Respondents in W.P.No.26027 of 2021



W.P.Nos.26027, 13897, 13899 and 13901 of 2021
& Rev.A.No.89 of 2018

Prayer in W.P.No.26027 of 2021: Writ Petition is filed under Article 226 of Constitution of India to issue a Writ of Mandamus, to direct the 1st and 2nd respondents to demolish the unauthorized constructions put by the Respondents 3 to 5 at No.1, Sri Vigneshwara Apartments, Varadharajan Mudali street, T.Nagar, Chennai-600017 as per the orders of the Additional Secretary (Technical) Housing and Urban Development, TamilNadu Government in No.8661/UDVI(1) / 2017- 8 dated 2.6.2021 within the time frame to be fixed by this Court.

W.P.No.13897 of 2021:

V.V.Viswanadh

...Petitioner

Vs.

1.The Addl. Secretary (Technical)
Housing & Urban Development Department
Secretariat, Chennai – 600 009.

2.The Member Secretary
CMDA
Thalamuthu Natarajan Buildings
Egmore, Chennai – 600 008.

3.The Commissioner
Corporation of Chennai
Rippon Buildings
Chennai – 600 003.

... Respondents

Prayer in W.P.No.13897 of 2021: Writ Petition is filed under Article 226 of Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the 1st respondent in Letter



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No.8661/UD Vi(1)/2017-18 dated 02.06.2021 and quash the same and consequently remand the matter back to the 1st respondent with a direction, to keep the petitioner's appeal filed under Section 80-A of the Town and Country Planning Act, pending till the disposal of the petitioner's application for regularization dated 20.11.2019 in CMDA/Reg-113C/1521/2019, by the 2nd respondent.

W.P.No.13899 of 2021:

Rathna Sekhari

...Petitioner

Vs.

1.The Addl. Secretary (Technical)
Housing & Urban Development Department
Secretariat, Chennai – 600 009.

2.The Member Secretary
CMDA
Thalamuthu Natarajan Buildings
Egmore, Chennai – 600 008.

3.The Commissioner
Corporation of Chennai
Rippon Buildings
Chennai – 600 003.

Prayer in W.P.No.13899 of 2021: Writ Petition is filed under Article 226 of Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the 1st respondent in Letter No.8661/UD Vi(1)/2017-18 dated 02.06.2021 and quash the same and consequently remand the matter back to the 1st respondent with a direction, to keep the petitioner's appeal filed under Section 80-A of the Town and



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Country Planning Act, pending till the disposal of the petitioner's application for regularization dated 20.11.2019 in CMDA/Reg-113C/1519/2019, before the 2nd respondent.

W.P.No.13901 of 2021:

A.V. Subha

...Petitioner

Vs.

1.The Addl. Secretary (Technical)
Housing & Urban Development Department
Secretariat, Chennai – 600 009.

2.The Member Secretary
CMDA
Thalamuthu Natarajan Buildings
Egmore, Chennai – 600 008.

3.The Commissioner
Corporation of Chennai
Rippon Buildings
Chennai – 600 003.

... Respondents

Prayer in W.P.No.13901 of 2021: Writ Petition is filed under Article 226 of Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the 1st respondent in Letter No.8661/UD Vi(1)/2017-18 dated 02.06.2021 and quash the same and consequently remand the matter back to the 1st respondent with a direction, to keep the petitioner's appeal filed under Section 80-A of the Town and Country Planning Act, pending till the disposal of the petitioner's application for regularization dated 27.02.2019 in CMDA/Reg-



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113C/1048/2019, by the 2nd respondent.

Rev.A.No.89 of 2018:

A. V. Subha

...Petitioner

Vs.

1. The Member Secretary
CMDA, Thalamuthu Natarajan Buildings,
Egmore, Chennai 8.

2. The Commissioner
Corporation of Chennai,
Rippon Buildings, Chennai 3

3. The Chairman cum Managing
Director, TANGEDCO,
10th Floor, NPKRR Maligai,
114, Anna Salai, Chennai 2

4. K. Saradha

5. S. Sumathi

6.S.Sampath

... Respondents

PRAYER in Rev.A.No.89 of 2018: Review Application filed under Article 226 of the Constitution of India, Order 47 Rule 1 read with Section 114 CPC, to review its order dated 23.04.2018 passed in W.P.No.4014 of 2018.

In W.P.No.26027 of 2021:

For Petitioners	: Mr.K.Sakthivel
For Respondents	: Mrs.Veena Suresh
	Standing counsel for R1
	Mr.D.B.R.Prabhu



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Standing counsel for R2
RR3 to 5 – No appearance

In W.P.Nos.13897, 13899 and 13901 of 2021:

For Petitioners : M/s S.P.Arthi
(in all Wps)

For Respondents : Mr.P.Gurunathan
(in all Wps) Additional Government Pleader
for R1
Mrs.Veena Suresh
Standing counsel for R2
Mr.D.B.R.Prabhu
Standing counsel for R3

In Rev.Aplw.No.89 of 2018:

For Petitioner : M/s S.P.Arthi
For Respondents : Mrs.Veena Suresh
Standing counsel for R1
Mr.D.B.R.Prabhu
Standing counsel for R2
Mr.L.Jaivenkatesh
Standing counsel for R3
For RR 4 to 6 – No appearance

COMMON ORDER

(Order of the Court was made by J.NISHA BANU, J.)

Challenging the Revised Locking and Sealing and Demolition notice



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issued by the Greater Chennai Corporation, the petitioners have filed the above writ petitions.

Seeking to review the order dated 23.04.2018 passed in W.P.No.4014 of 2018, the petitioner has filed the Review Application.

2.Since the issues involved in these writ petitions are connected with each other, they are disposed of by a common order.

(i) It is the case of the petitioners in W.P.No.26027 of 2021 that they are the individual owners of the Sri Venkateshwara Apartments situated at No.1, Varadharajan Mudali Street, T.Nagar, Chennai-600017. The said apartment was constructed in the year 2002 and the authorities concerned permitted for construction of 74.93 sq.mtrs in the ground floor and 127.50 sq.mtrs in the 1st floor. However, the owner cum developer of the said apartment constructed the 2nd and 3rd floors without planning approval. Therefore the official respondents made a spot visit and issued Locking and Sealing and Demolition notice dated 14.07.2018.



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(ii).Aggrieved against the said notice, the petitioners have preferred appeal under section 80(A) of the Tamil Nadu Town and Country Planning Act, 1971 before the Government and the said appeal was rejected vide order dated 02.06.2021.

(iii).As against the rejection of 80(A) appeals by the Government, the petitioners have filed regularisation petitions under Section 113 – C of the Town and Country Planning Act (in short 'the Act'), before the Chennai Metropolitan Development Authority and the same is still pending.

3. (i). It is averred in the affidavit of the W.P.Nos.13897, 13899 and 13901 of 2021 that they are the absolute individual owners of the above said apartment. They bought the individual units in the 2nd floor. It is further averred that the construction of the said apartment was completed in the year 1999. Since the owner cum developer of the said apartment constructed the 2nd and 3rd floors without planning approval, the petitioners have filed an application for regularization under Section 113 -A of the Town and



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Country Planning Act (in short 'the Act').

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(ii). On 08.09.2016, at the instance of one of the resident in the first floor, a Locking & Sealing and Demolition notice was issued by the 3rd respondent herein. Aggrieved against the said notice dated 08.09.2016, the owners of the ground and first floor filed W.P.Nos.20728 of 2017 and 4014 of 2018 before this Court. This Court, by an order dated 23.04.2018, directed the petitioners therein to file an appeal under Section 80 – A of the Act. Again the 3rd respondent issued revised Locking & Sealing and Demolition notice dated 14.07.2018.

(iii). Based on the directions of this Court in W.P.Nos.20728 of 2017 and 4014 of 2018 dated 23.04.2018, all the petitioners herein have filed appeals under Section 80 – A of the act and the said appeals were rejected vide order dated 02.06.2021.

(iv). As against the rejection of 80(A) appeals by the Government, the petitioners have filed regularisation petitions under Section 113 – C of



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the Town and Country Planning Act (in short 'the Act'), before the Chennai Metropolitan Development Authority and the same is still pending.

4. (i) As regards the Review Application filed in Rev.Appl.No.89 of 2018 the petitioner therein challenges the order of this Court made in W.P.No.4014 of 2018.

(ii). The petitioner in W.P.No.4014 of 2018 is the owner of the subject land and she along with the builder constructed the said apartments. The petitioner had filed the above Writ Petition seeking directions before this Court to demolish the unauthorized and deviated constructions in the first floor of the said property. This Court by its order dated 23.04.2018, permitted the official respondents therein to issue locking, sealing and demolition notice to the occupants, followed by de-occupation notice. Further, this Court directed the petitioner therein to avail the remedy available under Section 80 – A of the Act. Challenging the order of this Court dated 23.04.2018, the review applicant has filed the present Review Application.



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5.The learned Standing counsel appearing for the CMDA would submit that the matter regarding regularization under Section 113 – C of the Act, is pending before the Hon'ble Supreme Court. He further drew the attention of this Court to the order passed by the Hon'ble First Bench of this Court in W.P.No.9725 of 2017 by order dated 27.07.2023 ***[K.Perumal Vs. The State of Tamil Nadu, Rep.by the Secretary to Government and others]***, wherein it is held as under:-

“3.We have disposed of other writ petitions, with an observation that, “if subsequently after the orders are passed by the Apex Court and the petitioners have any remedy open, they are entitled to agitate the same afresh. In that event, all contentions are kept open”. We have observed that the parties may take steps pursuant to the judgment of the Apex Court.

4.In case, after the judgment of the Apex Court, if it is found that the fifth respondent is not entitled for regularization, then the petitioner may agitate afresh.”

6.In view of the fact that the matter regarding regularization is seized



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of by the Hon'ble Supreme Court, the only remedy open to the petitioners is to await the orders of the Supreme Court. The petitioners are entitled to agitate the issue afresh, after the orders are passed by the Supreme Court, on the subject matter. Accordingly, the writ petitions are disposed of. No costs.

7.In view of the order passed in the W.P.Nos.26027, 13897, 13899 and 13901 of 2021, dated 25.09.2023, no further order is necessary in the Rev. Aplw. No.89 of 2018 and the same stands closed. Consequently connected miscellaneous petitions are closed.

(J.N.B., J.,) (N.M., J.,)
25.09.2023

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Index: Yes / No
Internet: Yes / No
Neutral citation : Yes / No

To
1.The Addl. Secretary (Technical)
Housing & Urban Development Department
Secretariat, Chennai – 600 009.
2. The Member Secretary
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan building,



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No.1, Gandhi Irwin Road, Egmore,
Chennai-600 008.

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3. The Commissioner
Greater Chennai Corporation, Ripon building,
Chennai-600009.

4. The Chairman cum Managing
Director, TANGEDCO,
10th Floor, NPKRR Maligai,
114, Anna Salai, Chennai 2.



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