



W.P.No.20336 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mr.V.LAKSHMINARAYANAN

W.P.No.20336 of 2023

G.Deva

..Petitioner

Vs

1. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Chennai - 600 008.
2. The Commissioner,
Greater Chennai Corporation,
Ripon Buildings, E.V.R.Road,
Chennai - 600 003.
3. The Additional Deputy Commissioner (Works),
Greater Chennai Corporation,
Ripon buildings, E.V.R.Road,
Chennai - 600 003.
4. The Regional Deputy Commissioner,
Greater Chennai Corporation,
Zonal Office No.12-B, Pulla Avenue,
Shenoy Nagar,
Chennai - 600 030.



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5. The Zonal Officer,
Greater Chennai Corporation,
Zonal - 8, No.12-B, Pulla Avenue,
Shenoy Nagar,
Chennai - 600 030.

7. Patturu Parthasarathy
No.127, Panjali Amman Koil Street,
Arumbakkam,
Chennai - 600 106.

8. M/s. Latha Constructions,
No.127, Panjali Amman Koil Street,
Old No.28, New No.119, 120,
Pillaiyar Koil Street, Arumbakkam,
Chennai - 600 106.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents 1 to 6 to take appropriate legal action to remove/ demolish the unauthorized and illegal construction put up by the 7th respondent through the 8th respondent at No.127, Panjali Amman Koil Street and Door Nos.114, 116, 117, 119 and 120 Pillaiyar Koil Street, Arumbakkam, Chennai - 600 106 by considering the petitioner's representation dated 04.11.2022

For Petitioner : Mr.R.Jayaprakash

For Respondents : Mr.C.N.Vinobha
Standing Counsel for R1
Mr.D.B.R.Prabu,
Standing Counsel for R2 to R6
Mr.Om Prakash
Senior Counsel for M/s. Pass Associates
for R7 & R8



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ORDER

(The order of the Court was made by V.LAKSHMINARAYANAN,J)

The writ petition seeks for a Writ of Mandamus directing the respondents 1 to 6 to take appropriate legal action with respect to the unauthorised and illegal construction that has alleged to have been put up by the 7th respondent.

2. The writ petitioner states that 60 flats have been constructed at Door Nos. 119 and 120 Pillaiyar Koil Street, Arumbakkam, Chennai - 600 106. According to him, the 7th respondent through the 8th respondent has put up construction of the 60 flats. He moved the 1st respondent, the Member Secretary, CMDA, under the Right to Information Act and got to know that the entire construction is illegal as it is without any building plan approval.

3. Pursuant to the receipt of the information under the R.T.I, he gave a representation dated 05.11.2014 seeking action to be initiated against the said building. On coming to know that action is not initiated by CMDA, the 7th and 8th respondents filed an application seeking regularisation of the illegal construction. They had also filed an application under section 80-A



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of the Town and Country Planning Act, amended by the State of Tamilnadu.

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The 80-A Application was dismissed by the Government on the ground that it was not proved that the construction had been made prior to the cut off date namely 28.02.1999. Consequently, the application filed by the writ petitioner objecting to the 80-A appeal was dismissed holding that there was no necessity to go into the issue.

4. After the dismissal of Section 80-A, since action had not been initiated against the respondent, the present writ petition has come to be filed.

5. At the time of hearing, we asked Mr.D.B.R.Prabu, the learned counsel representing the Corporation of Chennai, whether there is any approved plan for the building. Mr.D.B.R.Prabu submits that there is no approved plan and the entire construction is illegal.

6. This case takes curious turn now that one Girjasekaran came before the Court stating that she has filed an other 80-A application seeking for orders from the Government to prevent any further action being taken on the ground that the building is illegal. She claims to be the owner of the property and relies upon the decree passed by the Court in C.S.No.441/2005 to state that the writ petitioner G.Deva had claimed title to the property and



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the same had been dismissed. She would further allege that the construction was made sometime in 1998 by the erstwhile owners and they had obtained the building sanction plan.

7. Taking note of the new stand taken by the proposed impleading petitioner, we requested Mr.Om Prakash, the learned Senior Counsel appearing for the proposed party, whether he has a copy of the building plan. The learned Senior Counsel would state that his vendors had informed him that they had a plan but the proposed party does not have a copy of the same.

8. Since there is a clear and categorical statement made by Mr.Om Prakash that there is no plan, we are not in a position to give much strength to the statement made in the impleading affidavit in paragraph No.9. The State authorities are aware as to whether there exists a plan or not and the State authorities have stated that there is no such plan.

9. Repeated filing of 80-A applications will not give a right to a person to continue with the illegal construction which had been put up. At this stage, we wanted to verify whether the properties(60 flats), which are said to have been constructed have been sold to innocent third parties. The petitioner as well as the proposed party were clear that there is no alienation



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of the property. Therefore, it continues to be with the persons who had put up the construction illegally. Since 80-A application has been rejected, we direct the respondents to initiate action in accordance with law either to remove or to demolish the construction which has been made at Door No.127, Pajanai Koil Street and Door Nos. 114, 116, 117, 119 and 120, Pillaiyar Koil Street, Arumbakkam, Chennai - 600 106. The said action shall be initiated within a period of eight weeks from the date of receipt of a copy of this order.

10. In the light of the above, the Writ Petition stands ordered. No costs.

(J.N.B.,J.) (V.L.N.,J.)
01.09.2023
(2/2)

Index: Yes/No
Speaking/Non-speaking order
vsi

To

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