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W.P.No. 23946 of 2019

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

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1. R.Venkataperumal
2. P.Manonmani
3. S.Nalini

Petitioners represented by their power of attorney agent
Mr.N.Subramanian, aged 55 years,
S/o late S.Pl.Narayanan, No.15/6,
Rangarajapuram second street,
Kodambakkam, Chennai 600 024.

.. Petitioners

Vs.

1. The Chennai Metropolitan Development Authority,
rep. by its Member Secretary,
Thalamuthu Natarajan Maligai,
1, Gandhi Irwin Roa, Egmore,
Chennai 600 008.
2. The Corporation of Chennai,
Rep. by its Commissioner,
Ripon Buildings, Park Town,
Chennai 600 003.



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3. The Executive Engineer,
The Corporation of Chennai,
Zonal Office X, Division No.117,
N.S.K.Salai, Kodambakkam,
Chennai 600 024.

4. S.Muthumani

5. N.Vaijayanthi

6. R.Kamakshi

7. Dileep Venkatakrishnan

8. S.P.Srinivasan

9. S.Sankaran

10. R.Srinivasa Raghavan

1. K.Shyamala

... Respondents

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 initiate appropriate legal action against the unauthorized offending and totally illegal construction of the other respondents/owners of flats in D-Block, R.R.Flats, situated at door No.1, Radhakrishnan Street, T.Nagar, Chennai-17, comprised in T.S.No.6281/1 Block no.137, T.Nagar Village, in accordance with the Acts and Rules of the Tamil nadu Town and Country Planning Act, 1971 and the Chennai City Municipal Corporation Act, 1919.



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For Petitioners : Mr. Sr.Mounaswamy Nathan

For Respondents : Mrs.P.Veena Suresh,
Standing Counsel for first respondent

Mr.E.C.Ramesh, Standing Counsel
for respondents 2 and 3

ORDER

(Order of the Court was delivered by P. DHANABAL, J.)

This writ petition has been filed to direct the respondents 1 to 3 to initiate appropriate legal action against the unauthorized offending and illegal construction of the other respondents/owners of flats in D-Block, R.R.Flats, situated at door No.1, Radhakrishnan Street, T.Nagar, Chennai-17, comprised in T.S.No.6281/1 Block no.137, T.Ngar Village, in accordance with the Acts and Rules of the Tamil nadu Town and Country Planning Act, 1971 and the Chennai City Municipal Corporation Act, 1919.

2. The petitioners are the owners of flats in Block No.B and C consists of 3 flats each in R.R.Flats, situated at Old door No.8 new door No.10, Sivaprakasam Street, Chennai-17, comprised in town survey No.6283, block No.137, T.Nagar Village. The respondents 4 to 11 are the



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owners of flat owners of D.Block in R.R.Flats, situated at door No.1, Radhakrishnan Street, T.Nagar, Chennai-17, comprised in T.S.No.6281/1 Block no.137, T.Ngar Village and they put up illegal construction, without any planning and building permission from the respondents 1 to 3. Though it is the duty of the respondents 1 to 3 to take action against the illegal construction, they have neglected to take appropriate action, besides complaint and representations being given. Hence the writ petition.

3. The first respondent filed counter affidavit stating that the CMDA has not issued any planning permission for construction in T.S.No.6281/1 Block No.137, Door No.1, Radhakrishnan Street, T.Nagar, Chennai-17 and hence, enforcement actions have been taken under Section 56 and 57 of the Tamil Nadu Town and Country Planning Act, only on those cases, in which CMDA has issued planning permission. Further, the CMDA has delegated powers to all the local bodies, including the Corporation of Chennai to take action on all types of unauthorized/deviated constructions under the provisions of the Act. Therefore, the further course of enforcement action is to be pursued by the Corporation of Chennai, under the delegation of



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powers issued by CMDA and also as per the MCMC Act, 1919.

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4. Notice issued to the respondents 4 to 11 have returned with an endorsement "refused to accept notice:..

5. Heard the learned counsel for the petitioners and the respondents 1 to 3 and we have perused the materials on record.

6. According to the petitioners, the respondents 4 to 11 had constructed building in R.R.Flats, D-Block, at door No.1, Radhakrishnan Street, T.Nagar, Chennai-17, comprised in T.S.No.6281/1 Block no.137, T.Ngar Village without getting any planning approval from the respondents 1 to 3. Further, the petitioners have obtained particulars under RTI Act from the CMDA, vide letter dated 12.01.2015, whereby, it was replied that, no planning permission was issued to construct building in the afore said place.



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7. At this juncture, the learned counsel for the respondents 2 and 3 replied that, for verification of construction of the building, the respondents 4 to 11 have not produced any new planning permission and they have given evasive reply, however, they have relied upon a planning permission granted in the year 1981. He further submitted that, as per the rules, the validity of planning permission is one year only and the above said period is already expired.

8. Even though, notice has been sent to the respondents 4 to 11, it has been returned with an endorsement " refused to accept notice ". However, considering the facts and circumstances of the case, we inclined to grant one more opportunity to the respondents to put forth their contentions with regard to the allegations levelled against them by the petitioners, before the authorities concerned.

9. Accordingly, it is ordered as follows.

1) The respondents 2 and 3 are directed to serve notice to the respondents 4 to 11, directing them to submit records with regard to the



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planning permission and other relevant records to the building constructed in the afore said land, within a prescribed time, maximum period of four weeks. Further, serve notice to the petitioner also to appear for enquiry, by fixing a specific date.

ii) On production of the documents by the respondents 4 to 11, the Corporation authorities are directed to verify the genuineness of the planning permission and other relevant records.

iii) On verification, if the Corporation authorities found that the building constructed in the property in question by the respondents 4 to 11 is illegal/unauthorized or any deviation in the building, they have to take action in accordance with the provisions of Section 56 and 57 of the Tamil nadu Town and Country Planning Act, 1971, after providing opportunity to them. Further, if there is no response from the respondents 4 to 11, the Corporation authorities have to take further action for removal of the unauthorized construction, in accordance with law.

iv) The entire enquiry process shall be completed within eight weeks from the date of receipt of a copy of this order.



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

(D.K.K.J.)

(P.D.B.J.)

22.06.2023

Internet: Yes/No

Index : Yes/No

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To

1. The Member Secretary,
The Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maligai,
1, Gandhi Irwin Road, Egmore,
Chennai 600 008.
2. The Corporation of Chennai,
Rep. by its Commissioner,
Ripon Buildings, Park Town,
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