



W.P.No.21989 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND

THE HONOURABLE Mrs.JUSTICE N.MALA

W.P.No.21989 of 2023

Kavitha

.... Petitioner

vs

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

2. The Principal Secretary / Commissioner,
Greater Chennai Corporation,
Rippon Building, Chennai- 600 003.

3. The Zonal Executive Engineer,
(Zone-VI) Greater Corporation Chennai,
No.5, Anderson Road,
Ayanavaram, Chennai- 600 023.

4. A.Selvakumar

5.The State of Tamil Nadu,
Rep by its Secretary,
Housing and Urban Development Department,



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Fort St.George,
Chennai- 600 009.

(R5 *Suo Moto* impleaded as per order of this Court
dated 26.09.2023 in W.P.No.21989 of 2023)

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus Directing the 2nd and 3rd respondents to take necessary enforcement action against the illegal construction put up by the 4th respondent based on the direction given by the 1st respondent vide Letter No.EC/ N-I/ 16096 / 2022 dated 23.11.2022 and submit report within the time stipulated by this Court.

For Petitioner : Mr.R.Prakalathan

For Respondents : Mr.C.N.Vinobha for R1
Mr.E.C.Ramesh for RR2 & 3
Mr.L.Dhamodaran for R4

Mr.P.Gurunathan,
Additional Government Pleader,
for impleading party R5

ORDER

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

This writ petition has been filed to issue a Writ of Mandamus to direct the 2nd and 3rd respondents to take necessary enforcement action against the illegal construction put up by the 4th respondent based on the direction given by the 1st respondent vide Letter No.EC/ N-I/ 16096



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/ 2022 dated 23.11.2022 and submit report within the time stipulated by

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this Court.

2. The petitioner is the owner of the property situated at No.95/2, Palani Aandavar Koil Street, Ayanavaram, Chennai-600 023. The petitioner averred that the 4th respondent, without planning permission from the 1st respondent had illegally constructed Ground plus 3 floors in the adjacent property. In this regard, the petitioner has given a complaint to the 1st respondent on 12.07.2022. However, no action was taken as against the said illegal construction. The petitioner therefore, preferred another complaint to the respondents on 07.09.2022. Since no action was taken by the respondents, the petitioner has filed the above writ petition with the aforesaid relief.

3. This Court directed respondents 2 and 3 to file status report on 09.08.2023. Accordingly Respondents 2 and 3 filed status report stating that the 3rd respondent officials visited the site on 26.08.2023; since the building constructed by the 4th respondent was treated as unauthorised construction, action was taken up by issuing Lock and Seal and



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Demolition Notice dated 26.08.2023; after 30 days from the Lock and Seal notice; De-occupation notice will be issued on 28.09.2023.

4. The 4th respondent filed a counter stating that superstructure was constructed. However, after receipt of the notice dated 26.08.2023, the 4th respondent submitted an appeal under Section 80-A before the Authority and the same is pending for consideration.

5. Since the appeal under Section 80-A is pending, this Court suo motu implead “The Secretary to Government, Housing and Urban Development Department, Fort St. George, Chennai-600 009” as a party respondent in this writ petition.

6. Considering the facts and circumstances of the case and that the appeal filed under Section 80-A is pending before the Secretary to Government, Housing and Urban Development Department, Fort St. George, Chennai- 600 009, the 5th respondent is directed to dispose of the appeal filed by the 4th respondent within a period of eight (8) weeks from the date of receipt of copy of this order. Till such time, the



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respondents 1, 2 and 3 shall not take any coercive action against the building in question.

7. The Writ Petition is disposed of with the above directions. There shall be no order as to costs.

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

26.09.2023

Index : Yes / No
Speaking Order : Yes/No
Neutral citation : Yes / No
dsn

Note:

Registry is directed to carryout necessary amendment in the cause title in this W.P.



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To

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4. The Secretary to Government,
Housing and Urban Development Department,
Fort St.George,
Chennai- 600 009.



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

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