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W.P.No.22889 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.08.2023

CORAM

THE HON'BLE MRS.JUSTICE J.NISHA BANU

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.22889 of 2023

and

WMP.No.22382 of 2023

Mrs.V.P.Umashankari

... Petitioner

Vs.

- 1.The Commissioner,
Greater Chennai Corporation,
Ripon Buildings,
Poonamallee High Road,
Chennai – 600 003.
- 2.The Assistant Executive Engineer (Buildings),
Greater Chennai Corporation,
ZONE No.14, 256, Velachery Road,
Lakshmipuram,
Velachery,
Chennai – 600 042.
- 3.The Executive Engineer, Buildings Division,
Greater Chennai Corporation,
Amma Maligai,
Ripon Buildings,
Poonamallee High Road,
Chennai – 600 003.



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4. The Director,
Directorate of Town and Country Planning,
2nd, 3rd and 4th Floors, CMDA Campus,
C & E, Market Road, Koyambedu,
Chennai – 600 107.

5. S. Teekaraman

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 to 4 herein to take action[s] to DEMOLISH the ILLEGAL CONSTRUCTION is being carried out by fifth respondent herein at Plot No.11 (Eastern Portion), Soundarya Nagar, Perungudi, Chennai – 600 096, comprised in Old Survey Nos.159/2 & 159/3 [Parts], New Survey No.59/3B1A [Part], measuring 400 Sq.ft., of land and also take any further action or actions against the fifth respondent herein.

For Petitioner : Mr.G.Sugadev Rajaguru

For R1 to R3 : Mr.D.B.R.Prabhu
Standing Counsel

For R4 : Mr.P.Gurunathan
Additional Government Pleader

For R5 : Mr.N.Ganeshmurthy

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ORDER

[Order of the Court was made by N.MALA,J.]

This Writ Petition is filed to direct the respondents 1 to 4 herein to take action(s) to demolish the illegal construction being carried out by the fifth respondent herein at Plot No.11 (Eastern Portion), Soundarya Nagar, Perungudi, Chennai - 600 096, comprised in Old Survey Nos.159/2 and 159/3 (parts), new Survey No.59/3B1A (Part), measuring 400 sq.ft. of land and also take any further action or actions against the fifth respondent herein.

2.The petitioner is the owner of the house in Plot No.12, measuring an extent of 825 sq.ft. comprised in Survey Nos.159/2 and 159/3, Soundarya Nagar situated at Perungudi Village, Sholinganallur Taluk, Chennai District. The petitioner is also the owner of the plot No.11, measuring an extent of 825 sq.ft. comprised in Survey Nos.159/2 and 159/3, Soundarya Nagar situated at Perungudi Village, Sholinganallur Taluk, Chennai District. The petitioner sold an area of 400 sq.ft. out of 1093



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sq.ft. in Plot No.11 to the fifth respondent with defined boundaries vide Sale deed in

Document No.3544 of 2022 dated 23.03.2023. According to the petitioner, the lay out promoters formed 10 feet width common passage, which was the approach road for Plot Nos.11 and 12 and also for use of the residents and the public of Soundary Nagar. It was the petitioner's case that the fifth respondent was constructing a multi-stored building without obtaining any planning permission and by encroaching on the 10 feet common passage by constructing a stair case in the common passage. In spite of the petitioner's request the fifth respondent continued with the construction and therefore the petitioner lodged a complaint on 06.06.2023 to the respondent Nos.1 to 4 against the illegal and unauthorized construction of the fifth respondent. As the respondent Nos.1 to 4 did not take any action on the complaint lodged by the petitioner, the petitioner was constrained to file the above writ petition for the aforesaid relief.

4.The fifth respondent filed a detailed counter denying all the averments made in the writ petition, apart from contending that the writ petition was filed with an ulterior and malafide motive and that it was not maintainable because the petitioner had an alternate remedy of a civil suit.

5.At the time of hearing of the writ petition, the learned counsel for the second



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respondent produced the copy of the notice issued under Section 56(1) and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 to the fifth respondent. In the said notice, it was stated that the construction site of the fifth respondent was inspected and it was found that no approved plan was exhibited at the site. The fifth respondent was requested to produce the copy of the approved plan in original, within a period of 15 days from the date of the receipt of the said notice, failing which it was stated that legal action as contemplated under the provisions of the Tamil Nadu Town and Country Planning Act would be taken.

6.As the respondents have already initiated action under the Act against the illegal and unauthorised construction put up by the fifth respondent, we are of the view that a direction to the second respondent to complete the process as expeditiously as possible and in accordance with law would suffice.

7.Accordingly, the Writ petition stands disposed of with the above direction. Connected miscellaneous petition stands closed. There shall be no order as to costs.

J.N.B.J., N.M.J.,
24.08.2023

Index : yes/no
Internet : yes/no
ah

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To

- 1.The Executive Engineer,
Zone – 7 Ambattur,
Greater Chennai Corporation,
No.536, C.T.H.Road,
Opp. Dunlop Company,
Ambattur,
Chennai – 600 053.
- 2.The Secretary to Government (Technical),
Housing and Urban Development
Department,
Secretariat,
Chennai – 600 009.



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J.NISHA BANU, J.
&
N.MALA, J.
ah

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