



W.P.No. 33546 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2023

CORAM

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR.JUSTICE P. DHANABAL**

W.P.No. 33546 of 2019

S.Thakeer Ali

..Petitioner

Vs

1. The Commissioner
Corporation of Chennai
Rippon Building,
Chennai-600002.

2.The Executive Engineer -II
ZoneXII,
Greater Chennai Corporation,
115, Dr Muthulakshmi Salai,
Adyar, Chennai-600020.

3.The Assistant Commissioner,
Corporation of Chennai,
Muduvinkarai, Guindy Zone,
Chennai-600032.



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4.The Chennai Metropolitan Development Authority,
Rep. by its Member Secretary,
Thalamuthu Natarajan Maligai,
Gandhi Irwin Road,
Egmore, Chennai-600008.

5.S.Mohideen Abdul Khader

..Respondents

Prayer : Writ Petition is filed under Article 226 of Constitution of India to issue a writ of Mandamus, directing the respondents 1 to 3 to remove the unauthorised and illegal super structure constructed by the 5th respondent measuring an extent of 1000 sq.ft in the Ground and 1st floor at New. No. 7, Old No. 66/1, Narasingapuram 6th Street, Guindy, Chennai-600032 .

For Petitioner : Mr.Abilash Sankar
For Mr.T.Ramachandran

For Respondents : Mr.D.B.R. Prabhu, Standing Counsel-R1 to
R3
Mr. R.Thamaraiselvan, Standing Counsel
-R4
Mr.S.Sathya Gandhi - R5

O R D E R

(Order of the Court was made by D.KRISHNAKUMAR, J.)

The prayer in the writ petition is for a direction to the respondents 1 to 3 to remove the unauthorised and illegal super structure constructed by the 5th respondent measuring an extent of 1000 sq.ft in the Ground and 1st



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floor at New. No. 7, Old No. 66/1, Narasingapuram 6th Street, Guindy,
Chennai-600032.

2. The learned counsel for the petitioner has submitted that the petitioner has made a complaint to the respondents 1 & 3 by way of representation on 27.02.2019 for taking action for the illegal and uauthorised construction put up by the 5th respondent at New. No. 7, Old No. 66/1, Narasingapuram 6th Street, Guindy, Chennai-60003. The learned counsel for the petitioner has further submitted that the petitioner has also made application under Right to Information Act to the 1st & 2nd respondents. Subsequently, on 14.05.2019, the 2nd respondent had furnished information to the petitioner stating that no building approval has been obtained by the 5th respondent from the 2nd respondent for the said construction. Hence, the petitioner has filed the present writ petition seeking directions to the respondents-authority to remove the illegal and unauthorised construction put up by the 5th respondent.



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4. The learned counsel appearing for the 5th respondent has submitted that on receipt of the pre-notice dated 09.12.2019, the 5th respondent has submitted reply dated 11.12.2019 enclosing the approved plan copy. The learned counsel for the 5th respondent has further submitted that due to civil dispute pending between the 5th respondent and the writ petitioner in C.S.No. 380 of 2018, the writ petitioner has filed writ petition against the 5th respondent suppressing the above facts and therefore, the writ petition is liable to be dismissed.



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5. Heard both sides and perused the materials available on record.

6. A perusal of the counter affidavit filed by the 3rd respondent-Corporation would clearly reveal that the only after obtaining planning permission from the Greater Chennai, Corporation, the 5th respondent had put construction in ground floor and floor in his property. The 5th respondent has also submitted the approved plan copy obtained from the 3rd respondent Corporation to the 2nd respondent along with his reply. Further the petitioner has filed the present writ petition in the month of November' 2019, whereas the 5th respondent has obtained the building plan approval as early in the month of May'2019 itself, which has been clarified by the 3rd respondent-Corporation in their affidavit.

7. Though Mr. Abilash Sankar, learned counsel represented on behalf the petitioner has strongly objected the submissions made by the learned counsels appearing for the respondents 3 & 5, in light of the aforesaid reasons , We are of the opinion that the averments made by the petitioner in the writ petition have been adequately answered by both the respondents-authority as well as 5th respondent. Consequently, We find that the writ



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petition lacks merit and liable to be dismissed.

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8. In the result, the writ petition is dismissed. No costs.

(D.K.K., J.) (P.D.B., J.)

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Index: Yes / No

Internet: Yes

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**D.KRISHNAKUMAR, J.
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