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W.P.No.24986 of 2023
& WMP.No.24407 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2023

CORAM: JUSTICE N.SESHASAYEE

WP.No.24986 of 2023
& WMP.No.24407 of 2023

G.Kamachi

...Petitioner

-Vs-

1.Electrical Inspector,
Chennai South Division,
Electrical Inspectorate,
Government of Tamil Nadu,
Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai – 600 032.

2.The Honourary Secretary,
Chitra Avenue Flat Owners Welfare Association,
(Reg.No.217/2023), Chitra Avenue,
Jayam Block, Basement,
No.9, Choolaimedu High Road,
Chennai – 600 094.

3.V.G.Selvaraja
(3rd respondent impleaded Vide the
order of this Court dated 28.08.2023
in WMP/24849/2023 in WP/24986/2023)

...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India,
to issue a Writ of Certiorarified Mandamus, calling for the records
relating to the Letter No.2185/E1/CHN (S)/Lifts/2023 dated 21.06.2023,



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on the file of the first respondent herein and to quash the same, and direct the first respondent to grant the permission for the operation of the lift upto the 4th Floor in 8th Block called as Manju Block, in T.S.No.189 in Chennai City Municipal Corporation No.112 in Door No.9, lying in Choolaimedu High Road, Chennai – 600 094, within a time frame as may be fixed by this Hon'ble Court.

For Petitioner	: Mr.S.Subbiah, Senior Counsel
For R1	: Mr.S.J.Mohamed Sathik
For R3	: Mr.S.Kamadevan

ORDER

The petitioner herein blames its builder that contrary to the approval given by the CMDA for construction of four floors, the builder had constructed seven floors. The petitioner now states that there is a lift provided in the block in which she lives and that she may be allowed to operate it up to the fourth floor in terms of the order passed by this Court in WP.No.16454 of 2018 dated 18.07.2018.

2.The learned counsel for the petitioner submits that Vide the proceedings dated 21.06.2023, the first respondent has restrained the petitioner from using the lift.



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3.Mr.S.J.Mohamed Sathik, learned Government Advocate takes notice for the first respondent.

4.Mr.S.Kamadevan, learned counsel takes notice for the third respondent.

5.The learned counsel for the first respondent made a statement on written instructions that so far as Manju block is concerned, the permission has been granted by the CMDA for construction of ground+2 floors and not even three floors.

6.This statement of the learned counsel for the first respondent is recorded.

7.This Court has to make suitable modification to the impugned order to make it in conformity with the statement made by the learned counsel for the first respondent and accordingly, directs that the first respondent not to interfere with the using of the lift up to the floor for which building



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permission has been granted by CMDA. In other words, there will not be and there cannot be any stoppage of operation of lift up to ground+2 floors.

8.This Court is also informed that the other statutory requirements for the operation of the lift has not been made, that the petitioner is only a tenant of the property, that statutory complaints can be given either at the instance of the owner of an apartment or by the concerned Residential Association.

9.Now, this Court directs that the lift be permitted to be operated in the manner indicated above and it is subject to the statutory compliance for its operation.

10.The Writ Petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

28.08.2023

Index : Yes/No
Internet : Yes/No
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To

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N.SESHASAYEE, J.,

Tsg

Order made in
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