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W.P.No.33894 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.33894 of 2022

and

W.M.P.No.33381 of 2022

Sagar Enclave Flat Residents Association,
Rep. by its President,
Suksagar Apartments,
TNHB Flat, 3rd Sea Ward Road,
Valmiki Nagar, Thiruvannamiyur,
Chennai – 600 041.

.. Petitioner

Vs.

1.The Chairman,
Chennai Metropolitan Development Authority,
Thalamuthu-Natarajan Maaligai,
No.1, Gandhi Irwin Road,
Egmore, Chennai – 600 008.

2.The Commissioner,
The Greater Chennai Corporation,
Rippon Building,
Chennai – 600 003.

3.The Assistant Engineer,
Division 182,
The Greater Chennai Corporation,
Thiruvengadam Street,
Adyar, Chennai – 600 020.

4.The Assistant Executive Engineer,



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Unit 38, The Greater Chennai Corporation,
Thiruvengadam Street,
Adyar, Chennai – 600 020.

5.The Tamilnadu Housing Board,
Rep. by its Manager,
Besant Nagar Branch,
No.48, Dr.Muthulakshmi Salai,
Adyar, Chennai – 600 020.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the 3rd and 4th respondents, in notice No.13/00099 of 2022 dated 17.10.2022 and quash the order passed therein and direct the respondents to permit the petitioner to carry out the work of repair and additional construction of the petitioner association building namely Suksagar Apartments, TNHB Flat, 3rd Sea Ward Road, Valmiki Nagar, Thiruvanmiyur, Chennai – 600 041.

For Petitioner : Ms.V.J.Latha

For R1 : Mr.C.N.Vinobha
Standing Counsel

For RR 2 to 4 : Mr.D.B.R.Prabhu
Standing Counsel

For R5 : Mr.Veerasekaran

ORDER

(Order of the Court was delivered by V.M.VELUMANI,J.)

The petitioner has come out with the present Writ Petition to call for the records relating to the proceedings of the 3rd and 4th respondents,



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in notice No.13/00099 of 2022, dated 17.10.2022 and quash the order passed therein and direct the respondents to permit them to carry out the work of repair and additional construction of the petitioner association building namely Suksagar Apartments, TNHB Flat, 3rd Sea Ward Road, Valmiki Nagar, Thiruvannamiyur, Chennai – 600 041.

2.Heard the learned counsel appearing for the petitioner, learned Standing Counsel appearing for the 1st respondent, respondents 2 to 4 and 5th respondent and perused the entire materials on record.

3.The present Writ Petition is filed by the residents of Sagar Enclave Flat Residents Association. The said apartment consists of Ground + 3 floors and each floor consists of four flats. The members of the petitioner association purchased the respective flats consisting of two bed rooms (wrongly stated as 3 bed rooms), hall and kitchen, measuring an area of 79.19 sq.mt, with an undivided land of 47.35 sq.mt of land. The building was constructed in the year 2000 with an FSI of 1.5. There are 16 water tanks placed in the terrace by raising column. Due to weight of the water tanks, the building has become dilapidated and there was leakage from the water tanks and the same causes damage to the 3rd floor.



The petitioner association decided to carry out the repairs and put up an extended floor to house the water tanks and approached the respondents for seeking permission. The respondents informed the petitioner that permission can be granted only for new construction. According to petitioner, the 5th respondent has given permission for putting up bore well, water tank, structure for shelter, car and two wheeler park in the common area. The proposed additional construction is within the FSI. While so, three members of the petitioner association received stoppage of work notice dated 17.10.2022, stating that construction is in deviation to the approved plan. The petitioner association submitted a representation to the 4th respondent seeking permission to carry out the repair works and for putting up additional construction for the purpose of housing 16 water tanks, which is in dilapidated condition. The petitioner association could not submit the application through online, since there is no provision for additional construction and sent representation dated 21.11.2022 and has come out with the present Writ Petition challenging the impugned stoppage of work notice dated 17.10.2022.

4.From the above materials, it is seen that the petitioner has sought for permission for putting up additional bed room, additional floor to



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house 16 water tanks from the 4th respondent. According to the petitioner, the 4th respondent informed them that there is no provision for putting up additional construction. The petitioner association started construction without any approved plan or permission for putting up additional construction. In such circumstances, the 4th respondent has issued the impugned stoppage of work notice dated 17.10.2022 under Section 56(1) and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act., 35 of 1972 as amended by Act 61 of 2008). The petitioner has to prepare a revised building plan for the proposed additional construction and submit the same to the respondents 1 to 4 for approval of the additional construction. The present relief to quash the impugned stoppage of work notice cannot be granted. The petitioner has given representation dated 21.11.2022 for permission to put up additional construction. It is open to the petitioner to prepare a revised building plan and submit the same for approval, if they so desire, within a period of four weeks from the date of receipt of a copy of this order. If any such revised plan is submitted by the petitioner to the 1st respondent, the 1st respondent is directed to consider the same on merits and pass orders on merits and in accordance with law, within a period of eight weeks thereafter.



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5. With the above observations, the Writ Petition stands dismissed.

Consequently, the connected Miscellaneous Petition is closed. No costs.

(V.M.V., J) (R.H., J)
03.01.2023

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Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

To

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