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W.P.No.15393 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.15393 of 2017
and W.M.P.Nos.16704 of 2017 & 741 of 2019

Sree Venkatachala Flat Owners Association
represented by its Secretary Harish Mahbubani
No.27, Sir Thyagaraya Road, T.Nagar
Chennai 600 017.

.... Petitioner

-Vs-

1.Chennai Metropolitan Development Authority
Rep.by its Member Secretary,
No.1, Gandhi Irwin Road, Chennai 600 008.

2.Rajiv Shah

3.Bhadra Shah

4.Raviram Builders
Represented by A.Meenakshi
No.3, Magesh Street,
T.Nagar, Chennai-600 017.

.... Respondents

Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbering the 1st Respondent from granting any regularization or passing any orders in favour of Respondents 2 to 4 pursuant to its proceedings bearing No.C6/36089/04 not Received and not available with the petitioner or in any of the proceeding number or reference number in respect of any construction on the 9th floor terrance of Block B of the building and premises known as Appasamy Towers situate at No.27 Sir Thyagaraya Road T.Nagar Chennai 600 017.



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For Petitioner : Mr.Saishankar
For Respondents : Mrs.P.Veena Suresh
Standing Counsel – for R1
Mr.Sanjay Ramasamy – for RR 2 and 3
No appearance - R4

ORDER

This writ petition has been filed for the issuance of writ of mandamus forbearing the 1st respondent from granting any regularisation in favour of respondents 2 and 3 with respect to the proposed construction in the 9th floor terrace in the subject property.

2. Heard Mr.Saishankar, learned counsel for the petitioner, Ms.Veena Suresh learned Standing Counsel for the 1st respondent and Mr.Sanjay Ramasamy learned counsel for the 2nd and 3rd respondents.

3. The case of the petitioner association is that the construction was made pursuant to the sanctioned plan issued by the CMDA dated 21.05.1986. As per the approved plan, the 9th floor of Block 'B', other than Flat No.B33 measuring 1475 sq.ft, the other areas must remain as open terrace. The grievance of the petitioner is that the 2nd and 3rd respondents took steps to utilise the open terrace. Immediately, a civil suit came to be filed in C.S.No.347of 2016 before this Court and this Court passed an order of status quo. This suit was subsequently transferred and it is now pending



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before the VI Additional City Civil Court, Chennai.

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4. In the meantime, the 2nd and 3rd respondents made an application to the CMDA seeking to regularise the additional construction in the 9th floor. On coming to know of the same, the petitioner association made objections and requested CMDA not to process the application. Since the same was not considered, the present writ petition has been filed before this Court.

5. The CMDA has filed a counter affidavit. It is seen from the counter affidavit that initially the application that was submitted by the 2nd and 3rd respondents was rejected by an order dated 20.12.2012. Aggrieved by the same, the 2nd and 3rd respondents went on an appeal before the Government and the Government passed an order allowing the appeal and the matter was remanded back to the file of CMDA. It was pursuant to the same, the regularisation application submitted by the 2nd and 3rd respondents was processed.

6. The learned Standing Counsel appearing on behalf of CMDA submitted that in view of the pendency of the suit and the status quo order that remains in force, the application submitted by the 2nd and 3rd respondents is kept pending.



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7. In the light of the specific stand taken by the CMDA, it will suffice if a direction is given to the 1st respondent not to process the regularization application submitted by the 2nd and 3rd respondents for the present and the 1st respondent will await for the final result in the suit that is pending before the City Civil Court. This direction will sufficiently take care of the grievance expressed by the petitioner association.

8. In result, this writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

15.06.2023

Index : Yes/No
Neutral Citation : Yes/No
KST
To

The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road, Chennai 600 008.

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