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W.P.No.26551 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2023

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

AND

THE HON'BLE MR.JUSTICE P.DHANABAL

W.P.No.26551 of 2017
and W.M.P.No.4354 of 2019
and W.M.P.No.28307 of 2017

A.Yovan Felix

... Petitioner

Vs.

1.The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road
Egmore, Chennai 8

2.The Zonal Officer, Zone – 8
Chennai Metropolitan Development Authority
No.36-B, Second Cross Street
Pulla Avenue, Shenoy Nagar
Chennai – 30

3.The Commissioner
Chennai Corporation
Rippon Buildings
Chennai



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4.Balamurugan
5.Anbalagan
6.Narayanan
7.Maheswaran

8.The Assistant Engineer (O & M)
Kilpauk TANGEDCO (TNEB)
No.37, Medavakkam Tank Road
Kilpauk, Chennai 600 010

(R8 *suomotu* impleaded)

(R8 amended as per order dt.05.03.2018
by MVJ & SVNJ in W.P.No.26551/2017)

9.The Principal Secretary to Government
Housing and Urban Development Department
Secretariat
St.George Fort
Chennai-600009

(9th respondent impleaded vide order of the
Court dated 23.06.2023 by DKKJ & PDBJ)

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to demolish 2nd and 3rd floor being the illegal construction put up by the respondents 4 to 7 in the front portion of R.E.Apartments, situated at No.72A, Vellalar Street, Purasawalkam, Chennai-84 by violating the planning permission which was granted only for the ground floor and 1st floor.



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For Petitioner :: Mr.V.Rajamohan

For Respondents :: Mr.Y.Bhuvanesh Kumar
for C.M.D.A – R1 & R2

Mr.D.B.R.Prabhu
Standing Counsel for Corporation-R3

Mr.M.Loganathan for R4 to R7

Mr.L.Jai Venkatesh
for TNEB – R8

Mr.E.Vijay Anand
AGP for R9

ORDER

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

Writ Petition has been filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to demolish 2nd and 3rd floor being the illegal construction put up by the respondents 4 to 7 in the front portion of R.E.Apartments, situated at No.72A, Vellalar Street, Purasawalkam, Chennai-84 by violating the planning permission which was granted only for the ground floor and 1st



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floor.

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2.It is submitted that the petitioner as well as the respondents 4 to 7 have filed their individual appeals before the appellate authority viz. the Principal Secretary to Government,Housing and Urban Development Department, Secretariat, St.George Fort, Chennai-600009 as against their individual properties for the violation of the building plan and it is stated that those appeals are still pending before the appellate authority. Hence, the present prayer sought for by the petitioner is not sustainable and this Court is unable to decide the petition when it is already pending before the appellate authority.

3.This Court, accordingly, allows the impleading petition filed by the petitioner in W.M.P.No.4354 of 2019 and impleaded the appellate authority viz. the Principal Secretary to Government, Housing and Urban Development Department, Secretariat, St.George Fort, Chennai-600009, as the 9th respondent in this writ petition to decide the appeals. This Court, hereby directs the newly impleaded 9th respondent viz. the Principal Secretary to Government, Housing and Urban Development Department,



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Secretariat, St.George Fort, Chennai-600009, to consider the said individual appeals filed by the petitioner and the respondents 4 to 7 and pass appropriate orders within a period of eight (8) weeks from the date of receipt of a copy of this order, after providing fair opportunities of hearing to the parties concerned.

4.With the above direction, this writ petition stands disposed of. Consequently, the connected W.M.P.No.4354 of 2019 stands allowed and W.M.P.No.28307 of 2017 stands closed. No costs.

(D.K.K.,J.) (P.D.B.,J.)
23.06.2023

Index : yes/no
Neutral citation : yes/no

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To

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Chennai Metropolitan Development Authority
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