



W.P.No.34607 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 19.12.2023

CORAM :

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.P.No.34607 of 2023
and W.M.P.Nos.34541 and 34539 of 2023**

Junaaid Rafiudin

... Petitioner

-Vs-

1. The Secretary to Government,
Housing and Urban Development Department,
Secretariat, Fort St.George,
Chennai – 600 009.

2. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajar Maaligai,
Gandhi Irwin Road, Egmore,
Chennai – 600 008.

3. The Commissioner,
Greater Chennai Corporation,
Ripon Building, Park Town,
Chennai – 600 003.

4. The Zonal Officer,
Greater Chennai Corporation,
Zone – IX, No.1, Lake Area,
4th Cross Street, Nungambakkam,
Chennai – 600 034.

... Respondents



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Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 2nd respondent in Letter No.EC/C-II/8428/2018 dated 20.10.2023 and quash the same and consequently direct the 2nd respondent to remove the seal in 9th floor at Old Nos.12 and 13, New No.29, Kodambakkam, High Road, Nungambakkam, Chennai – 600 034 within the stipulated period that may be fixed by this Court.

For Petitioner : Mr.K.Bhoopathy Raja

For Respondents : Mrs.R.L.Karthika,
Government Advocate [R1]

Mr.D.B.R.Prabhu,
Standing Counsel [R3 and R4]

Mr.R.Thamaraiselvan,
Standing Counsel [R2]

ORDER

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

The prayer sought for herein is for a writ of certiorarified mandamus to quash the order of the 2nd respondent in Letter No.EC/C-II/8428/2018 dated 20.10.2023 and consequently direct the 2nd respondent to remove the seal in 9th floor at Old Nos.12 and 13, New No.29, Kodambakkam, High Road,



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Nungambakkam, Chennai – 600 034 within the stipulated period that may be fixed by this Court.

2. The petitioner has purchased a plot at the 9th floor of the building, which was, according to him, constructed in the year 1998.

3. However, he came to know that the 9th floor was not permitted, therefore in order to get the approval, the application submitted by him has been rejected, as against which the petitioner preferred an appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 in Appeal No.21254 of 2018 and according to Mr.K.Bhoopathy Raja, learned counsel appearing for the petitioner that the said application is still pending with the first respondent.

4. This position has not been controverted by Mrs.R.L.Karthika, learned Government Advocate, who, has taken notice for the first respondent, on instructions, would submit that the said appeal if it is pending with the first respondent, the same would be disposed of on merits and in accordance with law within a period of six(6) weeks.



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5. Mr.R.Thamaraiselvan, learned Standing Counsel, who has taken notice for the second respondent would submit that, since the appeal claimed to have been pending before the first respondent that will not preclude the second respondent to take action, that is why the impugned notice dated 20.10.2023 has been issued.

6. Be that as it may, now the main appeal is pending before the Government from 2018, which the Government wants to dispose of it at the earliest point of time, hence, before the decision to be made by the Government, if any further coercive action pursuant to the impugned notice dated 20.10.2023 is taken, certainly that would prejudice the interest of the petitioner. In view of the same, we are inclined to dispose of this writ petition with the following order:

- ◆ That there shall be a direction to the first respondent to decide the appeal No.21254 of 2018 filed under Section 80-A of the Tamil nadu Town and Country Planning Act, 1971, after giving an opportunity of being heard to the petitioner within a period of six(6) weeks from the date of receipt of a copy of this order.
- ◆ Till such time, no further coercive steps should be taken pursuant to the impugned notification issued by the second respondent dated 20.10.2023.



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7. With these directions, this writ petition is ordered accordingly. No costs. Connected miscellaneous petitions are closed.

(R.S.K.,J.) (G.A.M.,J.)
19.12.2023

Index : Yes/No
Speaking Order/Non-speaking order
Neutral Citation : Yes/No
mp

Note: Issue order copy on 20.12.2023.

To

1. The Secretary to Government,
Housing and Urban Development Department,
Secretariat, Fort St.George,
Chennai – 600 009.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajar Maaligai,
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R.SURESH KUMAR, J.
and
G.ARUL MURUGAN, J.

mp

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