



W.P.No.1683 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

W.P.No.1683 of 2024

and

W.M.P.No.1726 of 2024

K.Eassa

... Petitioner

Vs.

1.The State

Represented by its Secretary of the Government,
Housing and Urban Development,
Fort St. George, Chennai.

2.The Member Secretary,

CMDA,
Thalamuthu Natarajan Building,
Egmore, Chennai – 600 008.

3.The Additional Secretary,

Housing and Urban Development Department,
Secretariat, Chennai – 9.



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4.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai – 600 003.

5.The Executive Engineer-Zone X,
Corporation of Chennai,
117, NSK Salai,
Kodambakkam, Chennai – 600 024.

6.The Area Engineer,
Chennai Metropolitan Water Supply & Sewerage Board,
No.1, Pumping Station Road,
Chintadripet, Chennai – 600 002.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order, vide letter No.5825297/UDVI(3)/2023-3, dated 12.12.2023, passed by the 3rd respondent and to quash the same as well direct the 2nd respondent to consider the representation dated 15.12.2023 in accordance with law.

For Petitioner	:	Ms.B.R.Benci Jerald
For R1 and R3	:	Mr.R.Vigneshwaran Government Advocate
For R2	:	Mr.Y.Bhuvanesh Kumar Standing Counsel
For R4 and R5	:	Mr.D.B.R.Prabhu Standing Counsel



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ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

This writ petition is filed challenging the order dated 12.12.2023 passed by the 3rd respondent dismissing the revision petition filed by the petitioner under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971.

2.The petitioner states that he is running a sweet shop in the subject property which originally consisted of Ground and First Floor. It is admitted that thereafter, the petitioner put up construction of Second to Fourth Floors on the property. Thereafter, it appears that the petitioner has applied for regularisation of the construction put up on the Second to Fourth Floors. Pending the regularisation application filed by the petitioner, the 6th respondent issued a notice dated 14.07.2018 informing the petitioner about the disconnection of water and sewerage connection to the premises. Challenging the said notice, the petitioner filed a writ petition earlier before this Court in W.P.No.19855 of 2018. By order dated 04.09.2023 in



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W.P.No.19855 of 2018, this Court, by recording as if the regularisation application submitted by the petitioner is confined only to Ground and First Floor, directed the official respondents not to take further action in respect of Ground and First Floors, whereas, this Court had directed that the amenities in respect of Second to Fourth Floors be disconnected as it was found to be unauthorised. Paragraph 7 of the order dated 04.09.2023 reads as follows :

“7.On 07.09.2023, the premises shall be inspected. Since it has been found and admitted by the petitioner that the second to fourth floors are unauthorized, the same shall be sealed immediately. Insofar as the ground and first floor are concerned, the petitioner states that she has applied for regularisation under Section 113-C. Therefore, pending consideration of the same, further action shall be deferred. It is made clear that insofar as the second to fourth floors are concerned, the amenities shall be disconnected immediately as the petitioner has admitted and it has been found by the respondent and the same is unauthorised.”

3.Now it is admitted that the regularisation application filed by the petitioner is also in respect of Second to Fourth Floors. However, the



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petitioner cannot be permitted to agitate his case quite contrary to the order passed by this Court earlier, where the petitioner was granted relief only with regard to Ground and Floor floors and there is a direction indirectly to take action against unauthorised construction. The direction of the Division Bench in the earlier order dated 04.09.2023 in W.P.No.19855 of 2018 against the unauthorised construction, will operate as *res judicata*. Despite this was pointed out to the learned counsel for the petitioner, she was repeatedly insisting for an interim order to direct the respondents to de-seal the unauthorised construction in the Second, Third and Fourth Floors. In view of the earlier order of this Court, we are not inclined to grant any relief to the petitioner. Accordingly, this writ petition is dismissed.

4.It is open to the petitioner to file a review application against the earlier order of this Court in W.P.No.19855 of 2018, dated 04.09.2023, where relief was confined only to Ground and First Floors and the respondents were directed to take action for removal of unauthorised construction in the remaining floors. Liberty is granted to the petitioner to file a review and wait for the disposal of the regularisation application filed



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by the petitioner. No costs. Consequently, connected miscellaneous
petition is closed.

(S.S.S.R., J.) (N.S., J.)
07.03.2024

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Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No

To

- 1.The Secretary to the Government,
Housing and Urban Development,
Fort St. George, Chennai – 600 009.
- 2.The Member Secretary,
CMDA,
Thalamuthu Natarajan Building,
Egmore, Chennai – 600 008.
- 3.The Additional Secretary,
Housing and Urban Development Department,
Secretariat, Chennai – 9.
- 4.The Commissioner,
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