



WP Nos.3513 of 2024 & 35095 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2024

CORAM

THE HON'BLE MR.JUSTICE S.S.SUNDAR

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WP Nos.3513 of 2024 & 35095 of 2023

Gemini Parsn Apartment Owners
Welfare Association
rep. By its Secretary

: Petitioner in both W.P.s

versus

1.The Additional Secretary (Technical)
Housing & Urban Development,
Secretariat, Chennai 600 009

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

3.The Commissioner,
Corporation of Chennai,
Chennai 3

4.Sivalingam

: Respondents in both W.P.s

Prayer: WP No.3513 of 2024 filed under Article 226 of the



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Constitution of India seeking a Writ of Certiorari calling for the records pertaining to the impugned order in Notice No.EC/C-II/4662/2019 dated 30.01.2024 passed by the second respondent and quash the same.

WP No.35095 of 2023 filed under Article 226 of the Constitution of India seeking a Writ of Certiorari calling for the records pertaining to the impugned order in No.5047/UD-VI(3)/2023-3 dated 01.09.2023 passed by the first respondent and quash the same.

For the Petitioner : Mr.S.Aniyruddh

For the Respondents : Mr.R.Vigneshwaran,
Government Advocate,
for the first respondent

Mr.Y.Bhuvanesh Kumar,
Standing Counsel,
for the second respondent

Mr.D.B.R.Prabhu,
Standing Counsel,
for the third respondent

Mr.Ashwin Kumar,
for Mr.Richardson Wilson,
for the fourth respondent

COMMON ORDER



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(Made by S.S.SUNDAR, J.)

These two writ petitions are filed by the Secretary, Gemini Parsn Apartment Owners Welfare Association, representing the flat owners.

2. WP No.35095 of 2023 is filed challenging the order passed by the first respondent, dated 01.09.2023. While setting aside the Locking, Sealing and Demolition Notice, dated 13.02.2023, the first respondent had directed the Chennai Metropolitan Development Authority to take fresh action against the petitioner building premises and to comply with the direction of this Court dated 27.02.2023. The petitioner association is aggrieved by the said order.

3. Challenge in WP No.3513 of 2024 is with regard to the notice issued by the second respondent, dated 30.01.2024, for removal of unauthorised construction/development carried out in the premises without proper approval and also for restoration of the land/building to its original condition before the said development took place.



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4. The petitioner had earlier filed WP No.11408 of 2019 seeking for a writ of Mandamus to direct respondents 2 and 3 to take action against the illegal construction put-up by the fourth respondent, pursuant to the rejection of his application for regularisation. Learned counsel appearing for the fourth respondent submitted that the fourth respondent has preferred a revision before the authorities and the same is pending. Considering the said fact, the Division Bench disposed of the writ petition, by order dated 27.02.2023, permitting the petitioner to file a petition to implead themselves in the revision filed by the fourth respondent before the first respondent herein, and the first respondent was directed to dispose of the revision after hearing the petitioner, fourth respondent, Chennai Metropolitan Development Authority and other Corporation officials.

5. The main grievance of the petitioner is that the revision was disposed of by setting aside the order locking, sealing and demolition order, dated 13.02.2020, issued against the fourth respondent, without hearing them. The Division Bench has categorically held that petitioner should be given an opportunity of hearing. However, no



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such opportunity was given by the first respondent before setting aside the demolition order passed against the fourth respondent.

6. Pursuant to the disposal of the revision, the official respondents have taken coercive action against the petitioner, without even issuing a show-cause notice. By the impugned order passed by the second respondent, dated 30.01.2024, the petitioner was directed to restore the land/building to its original condition before the unauthorised construction was made.

7. The only grievance expressed by the petitioner before this Court is that no notice was issued to them before passing the impugned order. Even though in the revisional order, the revisional authority has observed that notice shall be issued to the petitioner association, no such prior notice was issued before passing the impugned order. This Court is of the view that the impugned order has been passed in utter disregard to the order passed by the revisional authority. The impugned order is therefore liable to be set aside on the ground of violation of the principles of natural justice.



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8. The writ petitions are, therefore, allowed. However, it is open to the respondents to take appropriate action for enforcement of the order in accordance with law, after issuing show-cause notice to the petitioner association.

9. There will be no order as to costs. Consequently, WMP Nos.35067 of 2023 and 3765 of 2024 are closed.

(S.S.S.R., J.) (N.S., J.)
18.06.2024

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

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