



W.P.No.3038 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

W.P.No.3038 of 2024

and

W.M.P.Nos.3314 & 3315 of 2024

G.Vaithiyalingam

... Petitioner

Vs.

1.The Additional Secretary,
Housing and Urban Development Department,
Secretariat,
Chennai – 600 009.

2.The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai – 600 003.

3.The Member Secretary,
Chennai Metropolitan Development Authority,
Greater Chennai Corporation,
Thalamuthu Natarajan Maaligai,
Gandhi Irwin Road,
Chennai – 600 008.



W.P.No.3038 of 2024

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4. The Zonal Executive Engineer,
Corporation of Chennai, Zone X,
No.64, N.S.K. Salai, Kodambakkam,
Chennai – 600 024.

5. The Assistant Executive Engineer,
Unit 29, Corporation of Chennai,
Kodambakkam,
Chennai – 600 024.

6. The Assistant Engineer, Division No.129,
Corporation of Chennai,
Saligramam,
Chennai – 600 093.

7. Ebreem Amaladoss

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records of the impugned proceedings in Letter No.5626207/UD VI(3)/2023-2 dated 29.12.2023 on the file of the 1st respondent and quash the same.

For Petitioner	:	Mr.J.Kather Hussain
For R1	:	Mrs.V.Yamuna Devi Special Government Pleader
For R2, R4 to R6	:	Mr.D.B.R.Prabhu Standing Counsel
For R3	:	Mr.Y.Bhuvanesh Kumar



W.P.No.3038 of 2024

Standing Counsel

ORDER

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

This writ petition is filed challenging the order of the 1st respondent, dated 29.12.2023, dismissing the revision petition filed by the petitioner under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971.

2.This is a peculiar case, where the petitioner, who has admitted that he has no approved plan, still wants to maintain that his premises cannot be locked, sealed or demolished.

3.The petitioner filed several writ petitions and representations as against the 7th respondent who is a third party about illegal construction alleged to have been made by the 7th respondent. In the process, it was also pointed out by the 7th respondent that the petitioner's building was not after getting planning approval. The petitioner admits that, after issuing show



W.P.No.3038 of 2024

cause notice, the notice for locking & sealing and demolition of the petitioner's building was issued, and the said order was under challenge before the 1st respondent in the revision petition under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971. The 1st respondent, after considering the admitted facts and the nature of building, dismissed the revision petition. Challenging the order passed by the 1st respondent in the revision petition, the above writ petition is filed.

4.The petitioner has not raised even a single ground as to why the order impugned is invalid or inappropriate on the admitted facts. Merely because the petitioner has purchased the property and put up construction, that does not mean that the petitioner should be shown indulgence to permit unauthorised constructions. One of the main grounds raised by the petitioner in the affidavit filed in support of this writ petition is that, by virtue of Section 113-A of the Town and Country Planning Act, 1971, every building or class of buildings developed on or before 3rd March, 2002, is exempted from all other provisions of the Act and Rules and Regulations. This argument cannot be sustained, as no building is exempted from the



W.P.No.3038 of 2024

applicability of the provisions of the Act merely because the Government introduced Regularisation Scheme at regular intervals. It may be open to the petitioner to file an application for regularisation of the building if it is permissible in law. The petitioner has not even done that. Even if the building was constructed without obtaining planning permission, still it is open to the petitioner to file fresh application for planning permission if it is permissible in law. The petitioner has not produced any records to show that his construction is authorised or that the construction can be regularised by submitting fresh plan for approval. In such circumstances, this Court is not inclined to give any liberty to the petitioner. The impugned order is perfectly valid and in accordance with law. Hence, we are unable to interfere with the same.

5. Therefore, this writ petition is dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petitions are closed.

(S.S.S.R., J.) (N.S., J.)
12.02.2024

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Internet : Yes



W.P.No.3038 of 2024

Index : Yes / No

Neutral Citation : Yes / No

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WEB COPY



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W.P.No.3038 of 2024



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W.P.No.3038 of 2024

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