



WP No.5819 of 2024

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 No.5819 of 2024

S.Rajendran : Petitioner

versus

- 1.The Member Secretary,
Chennai Metropolitan Development Authority,
Gandhi Erwin Road, Egmore
- 2.The Zonal Officer,
Zone VIII, Greater Chennai Corporation,
Pulla Avenue, Shenoy Nagar,
Chennai 600 030
- 3.The Executive Engineer,
Zone VIII, Greater Chennai Corporation,
No.36-B/12-B,
Pulla Avenue, Shenoy Nagar,
Chennai 600 030
- 4.The Assistant Executive Engineer,
Unit-22, Old Division 100,
New Division 103,
No.36-B/12-B, Pulla Avenue,
Shenoy Nagar,
Chennai 600 030



WP No.5819 of 2024

5.V.Kumar

: Respondents

WEB COPY

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus directing respondents 2 to 4 not take any enforcement action in view of the notice of De-Occupation dated 01.02.2024 in Notice No.Ma.A.08.Na.Ka.No./775/2024 as against the petitioner premises situated at Door No.155/6 N.M.K. street Ayanavaram, Chennai 600 023 pending consideration of the application for Regularisation under section 113-C of the Town and Country Planning Act 1971 on the file of 1st respondent vide Receipt no. CMDA /Reg- 113C/1562/2019 dated 12.12.2019.

For the Petitioner : Mr.S.Santhan

For the 1st Respondent : Mr.Y.Bhuvanesh Kumar,
Standing Counsel

For Respondents 2 to 4 : Mr.D.B.R.Prabhu,
Standing Counsel

ORDER

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

This writ petition is filed challenging the de-occupation notice issued by the third respondent by proceedings dated 01.02.2024.

2. The petitioner has filed this writ petition only on the strength of the application filed by him seeking regularisation, under Section 113-C of the Town and Country Planning Act, 1971, on 12.12.2019.



WP No.5819 of 2024

WEB COPY

3. The grievance of the petitioner is that the official respondents are trying to enforce the impugned action of de-occupation and the said action will not be necessary, in case the petitioner's building is regularised, by considering his application dated 12.12.2019.

4. A counter affidavit is filed by the first respondent, who is the competent authority to consider the application for regularisation. It is not disputed before this Court that additional construction could be regularised, only if it is constructed before 2007.

5. The petitioner appears to have purchased the property with building in the year 2006. For the purpose of putting-up additional construction, the petitioner applied for planning permission for the construction of stilt + two floors from the corporation and obtained the same on 06.06.2013. The petitioner appears to have put-up additional construction in violation of the planning permission obtained by him for putting up construction as above.



WP No.5819 of 2024

WEB COPY

6. The petitioner's additional construction was put-up in the year 2013. Therefore, he is not entitled to seek regularisation of the said construction, under Section 113-C of the Town and Country Planning Act, 1971. Since the application filed by the petitioner is liable to be dismissed even on the admitted facts, there is no scope for entertaining the writ petition.

7. The writ petition is accordingly dismissed. There shall be no order as to costs. Consequently, WMP No.6458 of 2024 is closed.

8. It is made clear that the official respondents may proceed to demolish only that portion of the building which is constructed in violation of the building planning permission obtained by the petitioner in the year 2013.

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

Index : Yes/No
Neutral Citation : Yes/No
tar



WEB COPY



WP No.5819 of 2024



WP No.5819 of 2024

To

WEB COPY

- 1.The Member Secretary,
Chennai Metropolitan Development Authority,
Gandhi Erwin Road, Egmore
- 2.The Zonal Officer,
Zone VIII, Greater Chennai Corporation,
Pulla Avenue, Shenoy Nagar,
Chennai 600 030
- 3.The Executive Engineer,
Zone VIII, Greater Chennai Corporation,
No.36-B/12-B,
Pulla Avenue, Shenoy Nagar,
Chennai 600 030
- 4.The Assistant Executive Engineer,
Unit-22, Old Division 100,
New Division 103,
No.36-B/12-B, Pulla Avenue,
Shenoy Nagar,
Chennai 600 030



WEB COPY



WP No.5819 of 2024

S.S.SUNDAR, J.

AND

N.SENTHILKUMAR, J.

(tar)

WP No.5819 of 2024

18.06.2024