



WEB COPY



WP No.6849 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2024

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

and

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

W.P.No.6849 of 2024

M.Mohana Krishnan

... Petitioner

-VS-

1. The Additional Secretary (Technical),
Housing and Urban Development Department,
Secretariat, Chennai 600 009.
2. The Principal Secretary / Commissioner,
Greater Chennai Corporation, Ripon Buildings,
No.1131, EVR Periyar Salai, Park Town,
Chennai 600 003.
3. The Executive Engineer, Zone 8,
Greater Chennai Corporation, No.36-B,
2nd Cross Street (East), Pulla Avenue,
Shenoy Nagar, Chennai 600 030.

4. E.Pakkirisamy

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents 2 and 3 herein to consider the petitioner's representation dated 05.02.2024 and take further enforcement action pursuant to the order of the 1st respondent herein in letter No.20692/UD-VI(2)/2019-3 dated 30.01.2023.



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For Petitioner : Mr.S.V.Karthikeyan
For Respondents : Mr.R.Vigneswaran
Govt. Advocate for R-1
: Mr.D.B.R.Prabhu
Stdg. Counsel for RR 2 and 3
: Mr.A.T.Jayaraman for R-4

* * * * *

ORDER

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

This writ petition is filed for issuance of writ of mandamus directing the respondents 2 and 3 to consider the petitioner's representation dated 05.02.2024 and take further enforcement action pursuant to the order of the 1st respondent in Letter No.20692/UD-VI(2)/2019-3 dated 30.01.2023.

2. The case of the petitioner is that he purchased a flat in the name of his wife from the fourth respondent by a registered sale deed dated 17.11.2005. After the sale deed was executed by the fourth respondent, the fourth respondent put up an additional construction obstructing the passage meant for the petitioner and others, apart from



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the additional construction in the stilt and other floors. De-occupation notice dated 29.08.2019 was issued to the fourth respondent. It is stated that the fourth respondent preferred a revision petition before the Government under Section 80A of the Tamil Nadu Town and Country Planning Act, 1971 and the said revision petition was also disposed of with a direction to the fourth respondent to rectify the defects and to restore the building as per the approved plan.

3. The grievance of the petitioner is that the fourth respondent, despite the direction of the first respondent to remove the unauthorised portion by himself has not rectified the same. Therefore, the petitioner, after making a representation before the official respondents, has come before this Court to consider the said representation.

4. The learned counsel appearing for the fourth respondent does not dispute any of the facts alleged by the petitioner in the affidavit filed in support of the writ petition. However, the learned counsel submitted that the petitioner, who has some issues against the fourth respondent, has filed this writ petition without any bonafides.

5. On the admitted facts, the official respondents who have



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issued de-occupation notice, should proceed further. But for the statutory revision filed by the petitioner, action would have been taken by the official respondents to demolish the unauthorised portion of the building to bring it in accordance with the approved plan. The fourth respondent does not dispute the unauthorised construction in the stilt and other floors as indicated in the locking and sealing notice issued even in 2019. The first respondent Government granted three months time to the fourth respondent to rectify the defects and to restore the building as per the approved plan. Therefore, this Court finds that there is unauthorised construction and the same has to be removed as directed by the first respondent. The fourth respondent cannot resist the enforcement action to be taken by the official respondents in the wake of the order passed by the first respondent, which has become final.

6. As a result, this writ petition is allowed on the admitted facts and the respondents 2 and 3 are directed to take further enforcement action as per the direction of the first respondent dated 30.01.2023. No costs.

7. The respondents shall demolish the unauthorised portion of



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the building and report compliance before this Court by the end of September, 2024.

8. Since the time granted to the fourth respondent for removal of unauthorised construction had expired long back and the fourth respondent had neither demolished the unauthorised portion by himself nor had requested the Corporation to do the work, the respondents 2 and 3 are entitled to carry out the demolition work on their own at the cost of the fourth respondent. However, the demolition of unauthorised portion need not wait for collection of costs from the fourth respondent.

(S.S.S.R., J.) (N.S., J.)
30.07.2024

Index : Yes/No
NC : Yes/No

sra

To

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

S.S.SUNDAR, J.
and
N.SENTHILKUMAR, J.



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(sra)

2. The Principal Secretary / Commissioner,
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No.1131, EVR Periyar Salai, Park Town,
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3. The Executive Engineer, Zone 8,
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