



W.P.No.12064 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 18.10.2024

Pronounced on : 28.10.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.12064 of 2023 and
WMP.Nos.11903, 11905 & 11907 of 2023

The Crest Residents Welfare Association

Rep. By its President,
VasudevanRadhaMohan,
C507, Tower 6 Block C,
Crest Residencies,
142, Velachery Main Road,
Velachery, Chennai 600 042

... Petitioner

Vs.

- 1.Chennai Metropolitan Development Authority,
Thalamuthu-Natarajan Maaligai,
No.1, Gandhi Irwin Road,
Egmore,
Chennai 600 008
- 2.Tamilnadu Fire and Rescue Services,
17, Rukmani Lakshmikanthan Road,
Egmore,
Chennai 600 008
- 3.The Inspector of Police,
J-7 Traffic Investigation Wing,
Velachery Police Station,
Velachery,
Chennai 600 042
- 4.M/s.Classic Housing Projects Private Ltd.,
C/o.Market City Resources Pvt.Ltd.,
Shree Laxmi Woollen Mills Estate,



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- R.R.Hoiery Building, Gr.Floor,
Opp.Sakti Mills, Off Dr.E.Moses Road,
Mahalaxmi, Mumbai 400 011
- 5.M/s.Classic Mall Development Company Private Ltd.,
C/o.Market City Resources Pvt.Ltd.,
Shree Laxmi Woollen Mills Estate,
R.R.Hoiery Building, Gr.Floor,
Opp.Sakti Mills, Off Dr.E.Moses Road,
Mahalaxmi, Mumbai 400 011
- 6.M/s.Starboard Hotels Private Ltd.,
C/o.Market City Resources Pvt.Ltd.,
Shree Laxmi Woollen Mills Estate,
R.R.Hoiery Building, Gr.Floor,
Opp.Sakti Mills, Off Dr.E.Moses Road,
Mahalaxmi, Mumbai 400 011
- 7.The Greater Chennai Corporation,
Rep. By the Commissioner, Ripon Building,
Chennai 600 003
- 8.The Tamilnadu Generation and Distribution Corporation
Limited (TANGEDCO) Rep. By the
Managing Director, NPKRR Maligai,
No.144, Anna Salai, Chennai 600 002
- (respondents 7 & 8 are *suo motu* impleaded as per order
dated 04.03.2024 in WP.No.12064 of 2023) ... Respondents

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent (CMDA) in its proceedings C3(s)/583/2019 and quash the revised planning permission No.C/PP/HRB/30/A/P/2022 dated 12.08.2022 issued therein and further direct the respondents 1 to 3 herein not to modify, deviate the earlier planning approval dated 20.02.2017 particularly modifying the parking



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space and causing hindrance to entry and exit points of the members of the petitioner association herein and/or in any manner trespassing upon the lands gifted to the Corporation towards road widening and OSR.

For Petitioner : Mr.S.R.Rajagopal,
Senior Counsel
for Mr.L.Muralikrishnan

For Respondents

For R1 : Mr.P.Kumaresan,
Additional Advocate General
Assisted by
Mrs.P.Veena Suresh,
Standing Counsel

For R2 : Mr.V.Manoharan,
Additional Government Pleader

For R3 : Mr.R.Kishore Kumar,
Government Advocate(crl.side)

For R5 & 6 : Mr.Sathish Parasran,
Senior counsel
for M/s.Ganesh and Ganesh

For R7 : Mr.E.C.Ramesh,
Standing Counsel

For R8 : Mr.L.Jai Venkatesh,

Advocate
Commissioner : Mr.P.K.Rajagopal



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ORDER

This writ petition has been filed challenging the revised planning permission granted by the first respondent dated 12.08.2022.

2. The respondents 4 to 6 own land to an extent of 7,20,015 sq.ft. comprised in TS.No.6 of Block No.20, Velachery Division situated at Old No.27/39, new door No.66 and present new door no.142, Velachery Chennai. They decided to develop the said land into an integrated residential cum non-residential commercial development. Out of the total extent of the land, 70,211 sq.ft. was gifted in favour of the first respondent towards open space reservation and to an extent of 20,156 sq.ft was gifted for road widening as per layout approval. The commercial portion was partially completed as Phoenix Market City, Chennai called as 'Phoenix Palladium' and the first respondent had issued completion certificate. Thereafter, the second partial completion certificate was also issued by the first respondent. The residential portions were named as 'The Crest' and 'Crest Towers' and another



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residential tower was proposed to be constructed over the Phoenix Palladium as 'Block D'. The commercial portion consists of commercial retail space, multiplex, shopping complex, mall area, kiosks and food courts. However, respondents 4 to 6 did not construct the residential as well as commercial portions as per the approved plan. That apart, they erected semi-permanent structure as a stage in front of Tower A of the residential units and demarcated as 'court yard' where several outdoors concerts and events are being conducted by closing the ingress and egress of the residents. The said area has been earmarked for fire evacuation. In the said area, they conducted events consisting nearly 1500 to 2000 people. It is conducted without following any protocol or safety measures. On the complaint, an inspection was made and subsequently the said structure was removed since it would obstruct the movement and operation of the Fire Department.

2.1 Further, common areas and amenities provided within the residential areas were to the exclusive right and usage of the residents. Exclusive parking slots were provided to the residents and access to the



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residential towers and residents' parking slots were provided through the gate leading to Radhamohan street. While the residents who purchased their respective flats while entering into the sale cum development agreement, they had earmarked separate entry and exit gates for the vehicles / public visiting the commercial portion of the development from the Velachary main road. But the members of the petitioners are not permitted to use those entry and exit points for ingress and egress to the residential units. They changed the entry and exit gates to the commercial space by closing the entry gate to the mall and allowed the exit gate for egress and to entry point to the mall. The exit point from the mall for the purpose of vehicles leaving the mall was rerouted through the setbacks provided to the residential blocks and the access paths provided to the residents through the gate leading to Radhamohan street. The setback area of the residential portion has been used as entry and exit accessways provided to the residence. It is also used by the general public who visit the commercial portions as exit. It causes nuisance and disturbance to the residents and it also violated the rights of the petitioner to their ingress and egress to their residence. As per the revised plan, there is no separate



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entry and exit provided for the visitors entering commercial space.

2.2 Though this Court granted interim order of *status quo*, subsequently vacated the interim order and permitted to proceed with the construction as per the revised planning permission dated 12.08.2022. Accordingly, now the entire construction has been completed.

3. Heard, the learned counsel appearing on either side and perused all the materials placed before this Court.

4. On perusal of the counter filed by first respondent and on hearing the submissions made by *Mr.P.Kumaresan*, the learned Additional Advocate General appearing for the first respondent, revealed that as per the earlier planning permission dated 30.03.2011, permit No.5951, respondents 4 to 6 partially completed the construction and issued partial completion certificate dated 23.01.2013. As per the revised planning permission, earlier approved plan and additional construction



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for commercial cum residential purpose with combined construction was issued on 20.02.2017 under planning permission No.11132. Accordingly, after completion of partial construction, the second partial completion certificate was issued dated 22.09.2017. Thereafter, once again the revised planning permission application was submitted in respect of Residence Tower D. In view of no objection certificates and Government order, they have complied all conditions and revised planning permission was issued for additional construction in planning permit No.14550 dated 12.08.2022. It is valid from 12.08.2022 to 11.08.2030. They had furnished General Power of Attorney obtained from all the flat owners to obtain revised plan from the authority concerned. Therefore, they are eligible to achieve maximum floor area.

4.1 The entry and exit for the premises shown from the Velachery Main Road, which was examined by the Multi-storeyed Building Panel Committee consist of officials from all the authorities concerned and forwarded to the Government along with recommendations. Thereafter, the Government accorded approval for the



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revised plan. The compliance of the approval will be checked before issuance of completion certificate based on the prevailing completion certificate norms. That apart, the applicant had shown open space reservation on the rear side of the property which gaining access from Radhamohan Street and Pandian Street. Already it has been handed over to the Greater Chennai Corporation. Therefore, the Greater Chennai Corporation is the custodian for the open space reservation. While pending the writ petition, this Court appointed an Advocate Commissioner cum Arbitrator to settle the issues between the petitioner and respondents 4 to 6 amicably. The Advocate Commissioner inspected the subject property and submitted interim report dated 04.03.2024. Thereafter, he filed final report on 25.03.2024.

5. On perusal of the final report submitted by the Advocate Commissioner and on hearing the submissions of *Mr.P.K.Rajagopal*, Advocate Commissioner, revealed that the second respondent requires a 11 meter clear setback for easy operation of the aerial ladder platform vehicle and fire vehicle during emergency. Therefore, it does not permit



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to conduct events or concerts with temporary structures / stages in the setback area and that clear side setback should be maintained without any obstructions. On inspection, he found that there can be no extra activities of any kind involving crowding of people in and around the fire safety lanes and the buffer zone along with dedicated emergency lane, as that would pose hazardous consequences in case of emergency.

6. Further, the third respondent also filed status report, which revealed that the Velachery Main Road is not heavily congested due to vehicles' entering and exiting the Phoenix Mall on weekdays. On weekends, heavy traffic of the vehicles are managed by posting traffic officers and men for the traffic duty and regulating the traffic without issue. Further, all the vehicles are entering through Velachery main road and exiting through Radhamohan Street. In fact, as per the request made by the traffic officials, from the year 2013 onwards, the mall vehicles are exiting through OSR land behind the mall and then through Radhamohan Street and also the residents of Tower A and B are entering and exiting through Radhamohan Street. The Tower C residents are entering from Velachery Main Road and exiting via Velachery main road. If the



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Radhamohan Street access and exit are not available, the whole traffic will lead to heavy traffic congestion on Velachery Main Road. Therefore, if the Radhamohan street exit is not available, it would create heavy traffic congestion since all have to enter and exit through Velachery Main Road.

7. In view of the above, this Court finds no infirmity or illegality in the order of planning permission granted by respondents 4 to 6 by order dated 12.08.2022. As such, this writ petition is devoid of merits and the same is liable to be dismissed. The first respondent must ensure that while applying for completion certificate after completion of the construction as per the revised planning permission dated 12.08.2022, respondents 4 to 6 have completed their construction as per the planning permission without violation such as modification in the planning permission and causing any hindrance to entry and exit points of the members of the petitioner. Further, respondents 4 to 6 are directed to pay additional remuneration of Rs.1,00,000/- (Rupees One Lakh only) to the Advocate Commissioner within a period of two weeks from the



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date of receipt of copy of this order.

8. With the above directions, this writ petition is dismissed.

Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

28.10.2024

Neutral Citation: Yes/No

Index: Yes/No

Speaking/Non-speaking order
lok

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