



W.P.Nos.18289 & 3201 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :	15.11.2023
PRONOUNCED ON :	11.01.2024

CORAM :

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.P.Nos.18289 & 3201 of 2023
and W.M.P.Nos.17491 & 3266 of 2023

W.P.No.18289 of 2023:

Dr.R.Sivasamy Velumani

... Petitioner

Vs.

1. The Secretary to Government,
Housing and Urban Development Department,
St.George Fort, Secretariat, Chennai 600 009
2. Executive Engineer, Zone – X,
Greater Chennai Corporation,
No.117, N.S.K.Salai,
Kodambakkam, Chennai 600 024
3. Assistant Executive Engineer,
Zone X, Unit 31, Greater Chennai Corporation,
No.117, N.S.K.Salai,
Kodambakkam, Chennai 600 024



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4. Assistant Engineer,
Division 132, Unit-31, Zone X,
Greater Chennai Corporation,
No.117, N.S.K.Salai,
Kodambakkam, Chennai 600 024

... Respondents

PRAYER in W.P.No.18289 of 2023: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to consider and pass orders in the application for Extension of Time Petition filed on 06.03.2023 and followed by reminder letter dated 19.04.2023 for seeking further time granted in the orders dated 05.12.2022 vide Letter no.2349/UD-VI(2)/2021-11, in respect of premises bearing No.1, 100 Feet Road, Jawaharlal Nehru Road. Opp to Lakshman Shruthi, Vadapalani, Chennai 600 026, and consequently forbearing the respondents 2 to 4 from taking coercive steps pursuant to the Lock and Seal and Demolition Notice dated 22.01.2021 till disposal of Extension of Time Petition by the first respondent.

W.P.No.3201 of 2023

Ottagapalayam Slum Clearance
Board Residents Welfare Association,
(Regn.No.19/2010)
No.2/19, 95th Street, 15th Sector,
K.K.Nagar, Chennai 600 078
Rep.by its Secretary,
D.Lakshmanan

... Petitioner

Vs.



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1. The Additional Secretary (Technical),
Housing and Urban Development Department,
Secretariat, Chennai 600 009
2. The Commissioner,
Corporation of Greater Chennai,
Ripon Buildings, Periamet,
Chennai 600 003
3. The Executive Engineer,
Zone X, Office of the Greater Chennai Corporation,
Kodambakkam, Chennai 600 024
4. The Chairman Cum Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai 600 035
5. The Executive Engineer and
Administrative Officer,
Tamil Nadu Housing Board, K.K.Nagar Division,
Anna Nagar (West),
Chennai 600 101
6. R.Sivasamy Velumani
7. R.Anandhi Prabha

... Respondents

PRAYER in W.P.No.3201 of 2023: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the impugned order passed by the first respondent vide his Letter No.2349/UD-VI(2)/2021-11, dated 05.12.2022 and quash the same only in so far as the same granted liberty to the 6th respondent to get a revised approval for the existing building and consequently direct the respondents 1 to 5 to take



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appropriate action to demolish and remove the unauthorised and illegal construction raised without any building permit on the front portion of the block 'A' put up by the respondents 5 & 6 on the front set back space at No.1, TNHB complex, 100 feet road, Vadapalani, Chennai 600 026 within a time frame fixed by this Court.

In W.P.No.18289 of 2023:

For Petitioner	: Dr.C.Ravichandran, Sr. counsel for Mr.S.B.Vishwanathan
For R1	: Mr.Abishekmurthy, Govt. Advocate
For RR 2 to 4	: Mr.D.B.R.Prabhu, Standing Counsel

W.P.No.3201 of 2023:

For Petitioner for R1	: Mr.S.Sathiachandran : Mr.Abishekmurthy, Govt. Advocate
For RR 2 & 3	: Mr.D.B.R.Prabhu, Standing Counsel
For RR 4 & 5	: Mr.D.Veerasekaran, Standing Counsel
For RR 6 & 7	: Dr.C.Ravichandran, Sr.counsel for Mr.S.B.Vishwanathan

COMMON ORDER



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Per J.NISHA BANU, J.

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Since the issue involved in both the writ petitions are one and the same, they are disposed of by this common order.

2. It is averred by the petitioner in W.P.No.18289 of 2023 that he is running Puthur Kattu Nuda Vaithya Salai at No.1, 100 Feet Road, Jawaharlal Nehru Road, Opp. to Lakshman Shruthi, Vadapalani, Chennai-600 026. He is the Managing Director of the said Vaithya Salai and now it has been changed as Puthur Kattu Bone and Joint Center Private Limited. The entire premises in which shop No.1 to 4 are situated, are being used by the petitioner for running the aforesaid Puthur Kattu Nuda Vaithya Salai. The petitioner is a registered Sidha and Ayurvedic Medicine Practitioner and registered the Sidha Clinic vide Registration No.CHENSID20210023985 vide the Tamil Nadu Clinical Establishments (Regulation) Rules 2018. The petitioner is also doing service to the poor and downtrodden people.

3. (i) The Tamil Nadu Housing Board had constructed row types of shops facing the Main Road now 100 Feet Road, Jawaharlal Nehru Road. After



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construction of row type shops in the Block A, the compound wall was erected covering the entire premises which could be evidenced by the letter dated 26.12.2018 vide Letter No.K.K.Na.Ko/Ne. Aa. Pe/5952/94 addressed by the Executive Engineer, Tamil Nadu Housing Board to the Inspector of Police, Crime Branch, R8 Vadapalani Police Station.

(ii) With regard to shop No.1, it was allotted to one Mr.P.Umapathy by the Tamil Nadu Housing Board and an agreement of sale dated 20.02.1994 was entered into. Subsequently, a registered sale deed dated 13.05.2002 was executed by Tamil Nadu Housing Board to and in favour of Mr.P.Umapathy and in which the plinth area of the shop was shown as 988.89 sqft. Subsequently, the said Mr.P.Umapathy executed a registered sale deed dated 06.06.2016 to and in favour of Mrs.S.Anandhi Praba who is the wife of the petitioner herein in respect of Shop No.1, in which the plinth area of the shop was shown as 988.98 sqft.

(iii) With regard to shop No. 2 pursuant to auction held on 0.11.1993 conducted by The Tamil Nadu Housing Board and also execution of an agreement of sale dated 24.04.1994, a registered sale deed dated 31.05.2004 was executed by



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the Tamil Nadu Housing Board to and in favour of Mr.A.G. Sathyanandan. In the said sale deed, the plinth area of the shop was shown as 988.89 sq.ft. Subsequently Mrs. Anandhi Praba the wife of the petitioner herein purchased the shop No.2, from Mrs.S.ShobaLatha W/o.Mr.A.G.Sathyanandan viz., the original allottee under the registered sale deed dated 24.04.2015, in which also the plinth area of the shop was shown as 988.89 sq.ft.

(iv) With regard shop No.3, which was constructed by the Tamil Nadu Housing Board along with shop No.1 to 5 and also Ist floor hall over the shop No.1 to 5. Since the original allottee committed default in payment of dues to the Tamil Nadu Housing Board, the allotment to the original allottee was cancelled and auction was held on 23.05.2015 and Mrs.Anandhi Praba the wife of the petitioner herein was successful bidder. Pursuant to the agreement of sale dated 04.06.2015, the Tamil Nadu Housing Board executed a registered sale dated 08.06.2015 to and in favour of Mrs.Anandhi Praba the wife of the petitioner herein in respect of Shop No.3, in which the plinth area of shop was shown as 368 sqft.

(v) With regard to shop No.4, pursuant to the auction held on 31.05.1994,



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the Tamil Nadu Housing Board executed a registered sale deed dated 15.10.2015 to and in favor of Mr.V.Karikalan in respect of shop No.4 in which the plinth area shown as 367.88 sq.ft. Subsequently Mr.V.Karikalan sold the shop No.4, to and in favour of the petitioner herein under the registered sale deed dated 15.09.2017.

(vi) The petitioner claims that he had raised the RCC roof for protection from rain and same is used as waiting hall for the patients of his clinic. This roof has been raised in the front setback deviating from the approved plan.

(vii) One Mr.D.Lakshmanan petitioner in W.P No. 3201 of 2023 had given a complaint to the respondents alleging that the petitioner has encroached the common pathway and had put up unauthorized construction and requested to take action against the same.

(viii) Vide letter dated 26.12.2018 in Letter No.K.K.Na.Ko/Ne.Aa. Pe/5952/94 addressed by the Executive Engineer, Tamil Nadu Housing Board to the Inspector of Police, Crime Branch, R8 Vadapalani Police Station, it is understood there is no common pathway as per the approved plan.



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(ix) Mr.D.Lakshmanan petitioner in W.P.No.3201 of 2023 has filed a Civil Suit bearing O.S.No. 7447 of 2019 on the file of XVIII Assistant Judge, City Civil Court, Chennai and the same is still pending. The said Mr.D.Lakshmanan has also filed a Writ Petition in W.P.No.20362 of 2020 before this Court, and the same was dismissed by order dated 24.09.2021 with following observation:-

"In the light of the statements made by the learned counsels appearing on either side, this Court, without expressing any opinion on the merits of the matter, directs the first respondent to consider and pass orders on the special revision/appeal made by the petitioner on merits and in accordance with law, within a period of six months from the date of receipt a copy of this order, after affording ample opportunity to the necessary parties. Till then, the respondents are hereby directed to maintain status quo".

(x) Pursuant to complaint, the respondents 2 to 4 herein have issued a Notice Calling for Approved Plan under Section 56 (1) and 57 read with Section 85 of Tamil Nadu Town and Country Planning Act, 1971 dated 21.12.2020 directing the petitioner to submit the approved plan within a period of 15 days from the date of receipt of the said notice.



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(xi) However, no approved plan was submitted by the petitioner. The petitioner's contention is that the building was built by the Tamil Nadu Housing Board as per approval and such plan or copy of the plan was not provided to the petitioner. The respondent as per law upon not receiving the approved plan, issued a Lock & Seal and demolition Notice dated 22.01.2021 under section 57 read with section 85 of Tamil Nadu Town and country Planning Act, 1971 calling upon the petitioner to comply with the sanctioned plan within 30 days, failing to comply, the respondents will secure compliance by locking and sealing the premises.

(xii) The petitioner herein appealed against the Lock and Seal notice under Section 80-A of Tamil Nadu Town and Country Planning Act, 1971. Without considering Section 80-A appeal and the respondents 2 to 4 issued De-occupation Notice dated 14.06.2021 under Section 56-Sub Section 2(A) & 57 reads with Section 85 of Tamil Nadu Town and Country Planning Act, 1971 to the petitioner herein, calling upon the petitioner to de-occupy the premises mentioned above within 15 days.



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3. The petitioner earlier filed Writ Petitions in W.P.Nos. 13550 and 13551 of 2021 challenging the notices issued by the respondent. The Writ Petitions were disposed by this Court by order dated 24.09.2021, on the following lines:-

"8. In the light of the statements made by the learned counsels appearing on either side, this Court, without expressing any opinion on the merits of the matter, directs the first respondent to consider and pass orders on the special revision/appeal made by the petitioner on merits and in accordance with law, within a period of six months from the date of receipt of a copy of this order, after affording ample opportunity to the necessary parties. Till then, the respondents are hereby directed to maintain status quo as on date."

The appeal filed by the petitioner was consider and disposed by the Additional Secretary (Technical), Housing and Urban Development Department vide Letter No.2349/UVD-VI(2)/2021- 11, dated 05.12.2022 by granting 3 months time period to rectify the defects and to restore the building as per the approved plan. "...8. Hence, the Government hereby dispose the revision petitions filed by Dr. R.Sivasamy Velumani under section 80A & 80A (3) of the Tamil Nadu Town and Country Planning Act, 1971 by granting 3 months time to the petitioner to rectify the defects and to restore the building as per the approved plan or to get a revised approval for the existing building as per the Tamil Nadu Combined Development and Building



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Rules, 2019. Greater Chennai Corporation is directed to pursue further action after the expiry of three months, if the petitioner failed to comply with the above directions. The Locking and Sealing & Demolition notice dated 22.01.2021, revised Locking and Sealing & Demolition notice dated 27.02.2021, De-occupation notice dated 14.06.2021 and all other further proceedings of Greater Chennai Corporation are stayed for a period of 3 months...."

4. The prayer in W.P No. 3201 of 2023 is to quash the impugned order passed by the Additional Secretary (Technical), Housing and Urban Development Department vide Letter No.2349/UYD-VI(2)/2021-11, dated 05.12.2022 by which 3 months time was granted to rectify the defects and to restore the building as per the approved plan.

5. Pending rectification, petitioner filed a petition before the 1st respondent for extending the time by letter dated 05.12.2022. The petitioner now prays to direct the 1st respondent to consider the said letter and in the mean time, to forbear the respondents 2 to 4 from taking coercive steps against the petitioner's building.

6. The complainant D. Lakshmanan, petitioner in W.P No.3201 of 2023 is



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the Secretary of a registered society bearing registration No. 19/2010. It was formed by the residents of Ottagapalayam. He states that in the year 1952, a scheme was conceived by the State government, to provide a link road from Guindy Industrial estate to the Industrial Estate of Ambattur and in the process of eviction, the people who are likely to be evicted, approached civil court Civil Suit in O.S.No:3769/1981, on the file of XIII Asst. City Civil Court, as against the laying of the link road. After due contest in the above matter, on 15.09.1983, the Civil Court delivered its judgment and decree in and by which the Court held that the formation of link road was essential for the purpose of development and to avoid traffic congestion. The Civil Court further held in the said judgment that since the members of the said Plaintiff Association were living Below Poverty Line, directed the State Government to allot the existing vacant site, situate in S.No.210 to them for their occupation.

7. The petitioner in W.P No.3201 of 2023 claims that Tamil Nadu Slum Clearance Board constructed tenements in an extent of 3.8% Acres out of the 4.68 Acres, allotted the same to the people by duly executing Sale Deeds in respect of the each allotment. While issuing allotments, the Tamil Nadu Housing Board took



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back the balance strip of land measuring an extent of 0.86% acres, which lies parallel in between the said Slum Clearance Board tenements and newly formed Inner Ring 100 Ft. link road, now named as Jawaharlal Nehru Salai at Ashok Nagar.

8. Thereafter, the Tamil Nadu Housing Board decided to construct commercial complex in two Blocks as "A" block and "B" block on either side of the existing Mandavelli Amman temple on the land taken back by them from the Slum Clearance Board in the above said 0.86 ½ Acres of land. The land to an extent of 3 grounds and 210 Sq. ft. was earmarked for raising construction of the commercial complex.

9. The complainant D. Lakshmanan, petitioner in W.P No.3201 of 2023 claims that the Tamil Nadu Housing Board, considering the request of the Petitioner's Association for earmarking common passage in the said strip of land, had revised the site plan and obtained an approval from the relevant designated persons in the Tamil Nadu Housing Board and 3 places were earmarked out of 0.86% Acres as common passage access to the Ottagapalayam residents to reach



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the Inner Ring 100 ft. link road viz: Jawaharlal Nehru Salai. The said 3 places were described as "X". "Y" & "Z" in the said revised site plan. The same is evidenced from the communication of the Chief Engineer, TNHB. in Lr.No.T.C.6/14727/91, Dated 18.04.1991, enclosing a sketch showing the Ottagapalayam Scheme. The letter reads:

"Sketch showing the Ottagapalayam Scheme and Access provided at three place to the existing huts on the western side from L.R.R. alignment is enclosed herewith for information and taking for further action." (Letter not attached.)"

10. The allegation raised by the petitioner in W.P.No.3201 of 2023 is that the petitioner in W.P No. 18289 of 2023 encroached the common pathway and built a compound wall restricting access to the users of the pathway. The Petitioner filed a suit in O.S.No.2350 of 2010 seeking declaration that the access provided at three places and marked as "X". "y" & "Z" to the residence of Ottagapalayam. But the said O.S., has been dismissed for default on 20.07.2016. A complaint was filed before the police, but no action was taken against them.

11. The learned counsel for the petitioner in W.P.No.3201 of 2023 contends



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that the impugned order passed by the 1st Respondent granting time to the Revision Petitioner/Petitioner in WP.18289/2023 to get a revised approval for the existing building is against the Rules set out under the Tamil Nadu Combined and Building Rules, 2019 as the said rules do not permit post facto approval. The learned counsel thus contended that the impugned order of the 1st Respondent is wholly illegal. The constructions made by the Respondents 6 and 7 are unauthorized and even without getting a valid approval from any of the concerned department.

12. The learned counsel for the petitioner in WP.3201 of 2023 relied on the following decisions :-

(i) CDJ 2022 MHC 337 [B.Kanchana Versus The Commissioner, Corporation of Chennai, Periyamet & Others]

(ii) 2006 (5) CTC 449 [P.T.Prabhakar and another Vs The Member Secretary, Chennai Metropolitan Development Authority, No.1, Gandhi Irwin Road, Chennai-8 and 7 others]

(iii) W.P.No.12757 of 2017 dated 06.07.2017 [M/s.First Capital Development India Pvt. Ltd., Rep. By its Director Vs. The Government of Tamil



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Nadu, Rep.by its Secretary, Housing and Urban Development, Secretariat and 2 others]

(iv) CDJ 2006 MHC 1829 [Madras Race Clup rep. By Mr.Aruna Vs. The Chennai Metropolitan Development Authority, rep. By its Member Secretary and Others]

In the above decisions, this Court came down heavily on the violators and observed that stringent action has to be taken against the violators. The relevant paragraph of the judgement reported in CDJ 2022 MHC 337 is extracted below:-

17... No application for approval after completion of the building can be entertained, as it would amount to putting a cart before a horse The Authorities shall also inspect the building from the basement level itself, so that the setbacks as suggested by them/plan can be adhered to and in any event, the FSI/area cannot be enhanced.

18. Electricity supply may be an essential service for any person, but certainly it shall not be to the violators and it has got to be fixed at the premium rate till the building is brought back in accordance with the plan. The Court may feel that disconnection of electricity may hinder not only to the violators, but also to the family members. In such an event, the Authorities / Court must ensure that while passing interim / final orders in the application, the Electricity Charges, Property Tax, Water and Sewage Charges must be five times to the violators, till such time the violation is set right and the building is rectified in terms of the plan. Such stringent conditions by the Authorities in the application that are pending before it under the provisions of the Act, 1971 or any other provisions of the Act would make the violators to adhere to the strict norms of construction in



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accordance with the plan. That apart, Officials of E.B. must make a periodical surprise inspection to violated places to check about the theft of electricity. If exorbitant rates are foisted, it will affect the monthly budget of the violators and they will think twice to violate, as the charges under three heads, viz., E.B., Property Tax and Water Charges are recurring one.

19. Last but not the least, we want to emphasize that Courts must be slow in granting relief, much less interim relief in cases where violators approach the Court for relief, as even a direction for disposal of representation will give rise to another round of litigation and Judges must ensure that no leniency is shown to the violators.

13. On the complainant's allegation against the building at No.1, 100 Feet Road, Jawaharlal Nehru Road, Vadapalani, Chennai-600 026, lock & seal and demolition Notice dated 22.01.2021 was issued in respect of the unauthorized construction put up by the petitioner in W.P.No.18289 of 2023. The petitioner filed revision under section 80-A and also filed a writ petition before this court.

14. The first respondent - Additional Secretary [Technical] filed counter affidavit. It is stated by the first respondent that in the revision petitions filed by the petitioner in WP.18289 of 2023, as against the locking and sealing and demolition notice dated 22.01.2021 and de-occupation notice dated 14.06.2021 issued by the Greater Chennai Corporation for the building at No.1, 100 feet road,



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Vadapalani, Chennai-26, after going through the report of the Greater Chennai Corporation, complaint of the objector who sought to take necessary action to demolish and remove the unauthorised and illegal construction by the petitioner in the said premises, it was observed that the revision petitioner is a subsequent purchaser who owns maximum built up area along with undivided share of land on the building of block 'A' allotted by Tamil Nadu housing board.

(b) It was stated by the first respondent that the revision petitioner has put up additional structure on the set back space and is using the building for hospital purpose. The Greater Chennai Corporation has issued notice indicting the deviations made with reference to the approved plan issued to Tamil Nadu Housing Board. In respect of objection made by Secretary, Ottagapalaym Slum Clearance board Residents welfare association, TNHB reported that there is no passage to the the said slum tenements through the land as per the approved lay out.

(c) It is submitted by the first respondent that the contention of the objector that there is a passage to the Ottagapalaym slum tenements through this plot is not



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tenable. That the revision petitions were disposed of by granting 3 months time to the petitioner in WP.18289 of 2023 to rectify the defects and to restore the building as per the approved plan or to get a revised approval for the existing building as per the Tamil Nadu Combined Development and Building Rules, 2019. Further, the 1st respondent directed the Greater Chennai Corporation to pursue further action after the expiry of three months, if the petitioner failed to comply with the above directions.

14. On the other hand, petitioner in WP.18289 of 2021 filed counter in WP.3201 of 2023 in the capacity of 6th respondent. It has been stated that under Section 56 [3] of Tamil Nadu Town and Country planning Act, 1971,

'...[3] any person aggrieved by such notice, may within the period specified in the notice and in the manner prescribed, apply for permission under section 49 for the retention of the land, or any building or works or for the continuance of any use of the land or building to which the notice relates...'

Therefore, in view of Section 56[3] of Tamil Nadu Town and Country Planning act, 1971, the 1st respondent is empowered to pass the impugned order with regard to applicability of Tamil Nadu Combined Development and building rules, 2019.



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The learned counsel relied on the following judgments:-

- (i) CDJ 2017 MHC 7449 [J.Ayesha Begam Managing Partner Vs. The Member Secretary & Others]
- (ii) CDJ 2022 MHC 2267 [Viresh Reddy and another Vs. The Secretary to Government, Chennai & Others]
- (iii) W.P.No.27150, 27153 of 2019 & 7894 of 2021 [A.Suresh and another Vs. The Secretary to Government and 5 others]
- (iv) 2013 (3) CTC 129 [Tamil Nadu Housing Board Vs. Mary Rani Immanuvel & others]

15. It is further stated that on submission of revised approval for the existing building plan, the authority will consider the same in the light of the prevailing development control rules. If the building is permissible as per the prevailing development control rules, no further enforcement action shall be taken till the conclusion of dispute between the writ petitioner and the respondent-authority.

16. In the counter, it is averred by the petitioner in WP.181828/2023 that the 1st respondent-Additional Secretary (Technical) has categorically stated about the



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non existence of passage alleged by the petitioner in WP.3201 of 2023. It is also stated that as regards pathway, a civil suit bearing OS.No.7447 of 2019 is pending on the file of XVIII Assistant judge, City Civil Court.

17. The Executive Engineer, TNHB, filed counter affidavit who is the 5th respondent in WP.3201 of 2023. It is stated among other averments that as per the approved layout, there is no existence of common passage between block A and the existing temple. It is stated that in W.P.27223 of 2009, one Yasoda one of the allottees of TNHB, sought for a direction to remove all the unauthorized encroachment and abuse by trespass in the vacant area of land part of the undivided share purchased and sought to provide safety measures at Commercial Complex 'A' block. This court by order dated 03.02.2010 ordered as under;-

'The respondent shall take immediate steps to remove the encroachments on the property which has been allotted to the petitioner. Such exercise shall be carried out by the respondent board within a period of four weeks from the date of receipt of a copy of this order.

On removal of encroachments, the respondents shall intimate the petitioner about the said act and the petitioner is at liberty to put up a compound wall to safeguard the property which has been allotted to her. “

After some litigations between the said Yasodha and the respondents, respondents



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removed the encroachment on the property. It is stated that civil suit filed for common passage was dismissed for default and same fact was suppressed by the petitioner in WP.3201/2023.

18. It is also stated that there is no common passage between block 'A' and the temple as per the approved plan. The TNHB counter reads that once sale deed is executed in favour of the allottees by the TNHB, the allottees are having full and whole rights over the property and the Board has no legal rights over the property already sold and sale deed executed.

19. Heard both sides and perused the entire typed set of papers and judgments relied on by both sides.

20. As per the statutory rules, the revision petition filed by the petitioner in WP.18289 of 2023 was disposed of. The objector's revision was also disposed of by the 1st respondent-Additional Secretary [Housing and Urban Development department].

21. However, the petitioner in WP.18289 of 2023 was unable to rectify the



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defects or to get a revised approval. The petitioner requests the court for a direction to the Greater Chennai Corporation and TNHB to issue approved plan, so that he can carry out the directions of the 1st respondent. Therefore, the petitioner in WP.18289 of 2023 sought for extension of time and filed Extension of Time petition on 06.03.2023 to carry out the directions of the 1st respondent.

22. It is well settled position of law that the statutory authorities are required to follow the rules scrupulously and their powers are confined to compounding the offences in certain cases where if any minor violations, not affecting public rights leading to public inconveniences. Any compounding recoil on the public, exemption is to be refused. The person proceeds with unauthorised constructions in total violation of rules does it with open eyes, aware of the consequences, such persons cannot invoke exemptions which could be granted in slight deviations. Statute shall not encourage illegality or perpetrates an illegality. If the construction is illegal, it has to be demolished.

23. The petitioner in WP.18289 of 2023, was given ample time to rectify the defects and the impugned order passed as early as on 05.12.2022 by granting 3



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months time period to restore the building as per the approved plan and the said period expired long before. The procedure of issuance of notice, opportunity of personal hearing and giving time to comply with the sanctioned plan all followed in accordance with statute. As such there is no merit in the writ petition filed by the Managing Director, Puthur kattu Naatu vaidhya salai, who sought for extension of time and not to take any action pursuant to the lock and seal and demolition notice dated 22.01.2021 against the illegal structure put up by the petitioner, has no merits. The citations relied on by the learned counsel for the petitioner in W.P.No.18289/2023 will not be applicable to the case on hand, as the petitioner in utter disregard of Regulations, has put up unauthorised construction and it will not come within the compoundable limits. Accordingly, W.P.No.18289 of 2023 is dismissed. The respondent-Greater Chennai Corporation is directed to demolish the unauthorised construction made by the petitioner in the premises bearing No.1, 100 feet road, Jawaharlal Nehru Road, Vadapalani, Chennai-26.

24. In the light of the above observation and direction issued to respondent-Greater Chennai Corporation, W.P.No.3201 of 2023 needs no further direction. Accordingly, WP.3201 of 2023 is disposed of in terms of the directions stated



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above. No costs. Consequently, connected miscellaneous petitions are closed.

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[J.N.B.,J]

[N.M.,J.]

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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

sts/nvsri

To:

1. The Secretary to Government,
Housing and Urban Development Department,
St.George Fort, Secretariat, Chennai 600 009
2. The Additional Secretary (Technical),
Housing and Urban Development Department,
Secretariat, Chennai 600 009
3. The Commissioner,
Corporation of Greater Chennai,
Ripon Buildings, Periamet,
Chennai 600 003
4. The Executive Engineer, Zone – X,
Greater Chennai Corporation,
No.117, N.S.K.Salai,



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Kodambakkam, Chennai 600 024

5. The Assistant Executive Engineer,
Zone X, Unit 31, Greater Chennai Corporation,
No.117, N.S.K.Salai,
Kodambakkam, Chennai 600 024
6. The Chairman Cum Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai 600 035
7. The Executive Engineer and
Administrative Officer,
Tamil Nadu Housing Board, K.K.Nagar Division,
Anna Nagar (West),
Chennai 600 101
8. The Assistant Engineer,
Division 132, Unit-31, Zone X,
Greater Chennai Corporation,
No.117, N.S.K.Salai,
Kodambakkam, Chennai 600 024



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W.P.Nos.18289 & 3201 of 2023

J.NISHA BANU, J.,
and
N.MALA, J.,

sts/nvsri

Common Order made in
W.P.Nos.18289 & 3201 of 2023

Dated:
11.01.2024