



W.P.No.16006 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2024

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No.16006 of 2024 and

WMP No.17472 of 2024

D.Samuel Surendran

... Petitioner

Vs.

- 1.The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development,
Secretariat, Chennai 600 009.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natrajan Building,
Gandhi Irwin Road, Chennai 600 008.
3. The Commissioner, Greater Chennai Corporation,
Ripon Building, first floor,
Raja Muthiah Road, Kannappar Thidal,
Periyamet, Chennai,
Tamilnadu 600 003.
4. Chinta Srinivasan
5. I.K.Rajeshwari
6. D.Premkumar

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7. Premkumar Rajasekaran
8. Rhenius Vijayakumar
9. V.Ganapathykumar
10. Jacob Thankamony
11. Karthik Balakrishnan
12. Trupti Sarangi
13. C.R.Dwarakanath
14. K.Ravi Kannan
15. P.Raghuraman
16. A.Ramesh
17. V.Mythili
18. R.S.Gunasekaran
19. P.Gandhi
20. P.Gowtham
21. Chinta Bhavani Shankar
22. M.Madhusudhan
23. M.Sathish Kumar
24. S.Saye Balasubramaniam
25. M/s Vasavi Builders,

No.8A, Kandaswamy Street, Raja Annamalaipuram,
Chennai 600 028.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India,



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for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to initiate action under Tamil Nadu Town and Country Planning Act, 1905 and the Chennai City Municipal Corporation Act, 1919 by immediately acting in furtherance to the lock and seal notice dated 05.07.2023 and demolish the unauthorised construction of the building.

For Petitioner : Mr.Dhanaram Ramachandran

For Respondents : Mr. S.John J.Raja Singh,

Addl.Govt.Pleader for first respondent

Mr.R.Sivakumar, Standing counsel for R2

Mr.DBR Prabhu, Standing counsel for R3

Mr.G.Gautham Ram Vittal

for respondents 9, 16, 18, 22 and 24

No appearance for respondents 6, 10.

ORDER

(Order of the Court was made by D.KRISHNAKUMAR, J.)

This writ petition has been filed to direct the respondents 1 to 3 to initiate action under Tamil Nadu Town and Country Planning Act, 1905 and the Chennai City Municipal Corporation Act, 1919 by immediately acting in furtherance to the lock and seal notice dated 05.07.2023 and demolish the unauthorised construction of the building.

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2. It is brought to the notice of this court that earlier, the petitioner had filed W.P.No.13686 of 2023 seeking direction to the respondents 1 to 3 herein to initiate action immediately in furtherance to the lock and seal notice No.05/2016/Dn.200 dated 19.01.2017 and to demolish the unauthorised construction of the building. In the said writ petition, this court has passed the following order.

2. Today, when the matter is taken up for hearing, the learned Standing Counsel appearing for the Chennai Corporation/3rd respondent would state that the building in question is now under lock and seal and to settle scores between the parties, they have to approach the appropriate Forum.

3. It is also brought to the notice of this Court that connected proceedings is pending before the National Company Law Tribunal, Chennai in I.A.No.72 of 2022 in C.P.No.568/IB/2017 filed by the Resolution Professional of one M/s. Vasavi Housing Infrastructure Limited.

4. The prayer in the said I.A.No.72/2022, is to direct the 1st respondent (Samuel Surendran)/ petitioner herein to contribute funds for completing the construction of the unfinished apartments and also to compensate the home buyers for the inordinate delay in completion of the construction and for other reliefs.

5. In the said I.A., it has been stated that though M/s. Vasavi Builders /25th respondent herein is a partnership firm, most of the financial transactions of Vasavi Builders with that of the Home Buyers



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were exercised in the Account of M/s.Vasavi Housing and Infrastructure Limited. Further, Section 60(3) of Insolvency and Bankruptcy Code 2016 clearly states that any case relating to the Corporate Debtor pending in any Court or Tribunal shall be transferred to the Adjudicating Authority (NCLT Chennai) dealing with the Insolvency Resolution Process or Liquidation Proceedings of such Corporate debtor. In the present case, the connected proceedings are pending before National Company Law Tribunal, therefore, any further action can be settled before NCLT.

6. In view of the above, this Writ Petition stands closed with liberty to the petitioner to approach the appropriate Forum in the manner known to law. No costs.

3. It is to be noted that, when the connected proceedings with regard the property in question are pending before the National Company Law Tribunal (NCLT), again, the petitioner has filed the present writ petition, seeking direction to the authorities concerned to act in furtherance to the subsequent lock and seal notice dated 05.07.2023.

4. A perusal of the records reveals the fact that to lift the lock and seal notice dated 19.01.2017, one M/s Vasavi Housing Infrastructure Limited has filed a petition in IA (IBC) No.1290/2024 in CP



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(IB)/568/(CHE)/2017 before the NCLT in which, the NCLT, vide order dated 27.05.2024, has directed the respondents 1 to 4 thereon to lift the lock and seal order dated 19.01.2017, in order to complete the project expeditiously.

5. Though the learned counsel for the petitioner submitted that the petitioner is not a party to the said proceedings before the NCLT, learned counsel for the respondent clarified that the present counsel appearing for the petitioner herein was appeared before the NCLT on behalf of the land owner.

6. At this juncture, learned counsel for the petitioner has made an attempt to clarify that the present counsel appearing for the petitioner had appeared before the NCLT as counsel on behalf of the intervener (petitioner herein) not for counsel on behalf of the party.

7. In any event, the petitioner had engaged the same counsel, who appeared now before this court, to appear on behalf of him before the NCLT and in the presence of his counsel, the said order has been passed and hence, the petitioner is having knowledge about the order of lifting the lock and



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seal, dated 27.05.2024 passed by the NCLT. Further, the said order dated 27.05.2024 passed by the NCLT is not challenged by the petitioner herein.

8. Inview of the above, we are of the opinion that since the connected proceedings with regard to the property in question are pending before the NCLT, it is for the petitioner to place all the materials before the NCLT, including the lock and seal notice issued subsequently and to work out the remedy . As such, we are not inclined to entertain the present writ petition.

9. Accordingly, this writ petition is dismissed. There shall be no order as to costs. Connected miscellaneous petition is closed.

(D.K.K.J.) (P.B.B.J.)
08.11.2024

Internet: Yes/No
Index : Yes/No
mst

To

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