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W.P.No.28338 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

W.P.No.28338 of 2023

and

W.M.P.No.27881 of 2023

- 1.M.B.Ravindran
- 2.Sandya Manohar
- 3.Sabina Michael Fernando @ Sabina Sampath
- 4.P.Chandramohan
- 5.Satish Chander
- 6.S.Ramakrishnan
- 7.B. Valli
- 8.R.Pratap Raghava
- 9.Rani Patrica
- 10.A.Jayanthi
- 11.Abdul Kader Ashraf Ali
- 12.K.Mohan
- 13.Vijay Balan
- 14.D.Balachandar
- 15.C.Thyagaraj
- 16.R.Sathyalakshmi

... Petitioners

Vs.



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1. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu-Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai – 600 008.

2. The Commissioner,
Greater Chennai Corporation,
Poonamallee High Road,
Chennai – 600 003.

3. S. Prabhu

4. The Principal Secretary to Government,
Housing and Urban Development Department,
Secretariat, Fort St. George,
Chennai – 600 009.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the 1st respondent to take necessary steps and action to remove the unauthorised construction made in the basement area of the premises bearing Door No.4/154F and 4/154F, Manapakkam Main Road, Sriji Apartments, Manapakkam, Chennai – 600 125, comprised in Survey No.45/3, New Survey No.45/3B of Manapakkam Village, previously Sriperumbadur Taluk, Kancheepuram District, presently, Alandur Taluk, Chennai District, within the limits of Greater Chennai Corporation, within a stipulated time frame.



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For Petitioners : M/s.V.Meenakshi Sundaram
For R1 : Mrs.R.Thamaraiselvan
Standing Counsel
For R2 : Mr.D.B.R.Prabhu
Standing Counsel
For R3 : Mr.V.Karthikeyan

ORDER

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

This writ petition is filed for issuance of a Writ of Mandamus to direct the 1st respondent to take necessary steps and action to remove the unauthorised construction made in the basement area of the premises bearing Door No.4/154F and 4/154F, Manapakkam Main Road, Sriji Apartments, Manapakkam, Chennai – 600 125, comprised in Survey No.45/3, New Survey No.45/3B of Manapakkam Village, previously Sriperumbadur Taluk, Kancheepuram District, presently, Alandur Taluk, Chennai District, within the limits of Greater Chennai Corporation, within a stipulated time frame.



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2. One M/s. Srinathji Developers had put up residential apartments in the name and style of “SRIJI APARTMENTS” at Door No.4/154F and 4/154G, Manapakkam Main Road, Manapakkam Village, Sriperumbadur Taluk, Kancheepuram District. A planning permit and building plan approval was sanctioned by the MMDA by proceedings dated 25.01.1996 for construction of 20 Dwelling Units on the aforementioned land and it is specifically mentioned that the building plan sanctioned was only for residential purposes. The petitioners have purchased the flats. The 3rd respondent also purchased 1460 sq.ft. undivided share of land together with 4100 sq.ft. built up area in the basement of the building from another person who had purchased the building from the promoter. The sale deed obtained by the 3rd respondent is dated 15.07.2022. It is the case of the petitioners that the builder has sold the basement area for commercial purposes and the same is illegal. It is specifically stated that the basement area is meant for car parking and therefore, permitting commercial activities in the basement area requires prior sanction from the appropriate authorities. The grievance of the petitioners is that the 3rd respondent cannot claim right over the



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basement area in the absence of any prior approval obtained from the appropriate authorities.

3.Learned counsel appearing for the 3rd respondent submits that an order was passed against the 3rd respondent for locking and sealing the premises and as against that order, the 3rd respondent has preferred a statutory revision in Appeal No.6416474 of 2023 before the Government under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971. The learned counsel submits that, it is only after filing of this writ petition, the official respondents have locked and sealed the premises, even though the statutory revision filed by the 3rd respondent under Section 80-A of the Town and Country Planning Act is pending before the Government.

4.Since this Court is inclined to issue directions to the Government for disposal of the statutory revision, this Court *suo motu* impleads the Principal Secretary to Government, Housing and Urban Development Department, Secretariat, Fort St. George, Chennai – 600 009, as 4th respondent in this writ petition.



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5.Considering the fact that statutory revision under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, stated to have been filed by the 3rd respondent is pending before the 4th respondent/Government, this Court is of the view that the official respondents can take appropriate action on the representation of the petitioners and other flat owners, subject to the outcome of the said revision petition. Since the official respondents have sealed the premises during pendency of this writ petition, this Court is inclined to issue the following directions :

- i. The 4th respondent is directed to consider and dispose of the statutory revision stated to have been filed by the 3rd respondent in Appeal No.6416474 of 2023, and pass appropriate orders, on merits and in accordance with law, within a period of 16 weeks from the date of receipt of a copy of this order.
- ii. The 1st respondent/CMDA is directed to de-seal the premises of the 3rd respondent for the present and permit the 3rd respondent to be in occupation of the premises.
- iii. Depends upon the outcome of the revision that is now pending before



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the 4th respondent, it is open to the official respondents to take further action in the manner known to law, without further reference to this Court.

6. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(S.S.S.R., J.) (N.S., J.)
26.03.2024

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Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No

To

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and
N. SENTHILKUMAR, J.

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