



W.P.No.27461 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2024

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR  
AND  
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

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Amjath Khan  
S/o late Abdul Hameed  
represented by his Power of Attorney  
Syed Sahib .. Petitioner

v.

1. The Commissioner  
St.Thomas Panchayat Union No.1  
Chitlapakkam First Main Road  
Chitlapakkam, Chennai 600 064
2. The Secretary to Government  
Housing and Urban Development Department  
Fort St.George, Chennai 600 009  
(R2 suo motu impleaded vide order  
dated 12.03.2024 in WP.27461/23) .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 1<sup>st</sup> respondent to consider the representation dated 05.08.2023 submitted by the petitioner in accordance with law within a time frame as may be fixed by this Hon'ble Court.



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For Petitioner :: Mr.Y.Prakash  
For Respondents :: Mrs.V.Yamuna Devi  
Special Government Pleader

ORDER

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

Having regard to the nature of order that is proposed to be passed in this writ petition, the Secretary to Government, Housing and Urban Development Department, Fort St.George, Chennai 600 009 is suo motu impleaded as the second respondent in this writ petition.

2. This writ petition is filed for issuance of a mandamus directing the first respondent to consider the representation of the petitioner dated 05.08.2023 in accordance with law.

3. The petitioner purchased a residential flat bearing No.G1, 'Balambigai Flats', Door No.19, Anna Street, Nanmangalam Village, Sholinganallur Taluk, Chennai 600 129. It is the case of petitioner that he took possession of the property and was residing with his family. It is also



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the case of petitioner that after residing in the property for sometime, the petitioner had shifted to USA due to his employment. When the petitioner returned to India, he found that the flat purchased by the petitioner was kept under lock and seal by the first respondent. It is in the said context, the petitioner submitted a representation on 05.08.2023 complaining that the petitioner was never heard and the first respondent had admitted that without issuing notice to the petitioner, who was in abroad, the order under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act dated 22.01.2019 was passed. The petitioner requested to de-seal the premises and initiate action only after issuing a formal notice to the petitioner and after conducting a fair enquiry.

4. Even though the writ petition was disposed of originally by order dated 12.10.2023, the order was recalled later on the representation of the first respondent stating that the building constructed by the petitioner is not authorized and that therefore the direction to demolish the building cannot be challenged in the writ petition. It is also brought to the notice of this Court that the other owners of flats have filed appeal challenging the order



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and appeal is pending. Since the other owners of flats are enjoying the interim order, the learned counsel for petitioner submitted that the petitioner may also be permitted to file an appeal as against the order and the respondents may be directed to de-seal the premises till such time the appeal is disposed of on merits.

5. Considering the request of the learned counsel for petitioner and the fact that the first respondent has not filed any counter affidavit so far, this Court is inclined to dispose of the writ petition with the following directions:-

- (i) The petitioner is directed to file the statutory revision in terms of Section 80-A of the Tamil Nadu Town and Country Planning Act before the second respondent within a period of two weeks from the date of receipt of a copy of this order.
- (ii) The first respondent is directed to de-seal the premises so as to enable the petitioner to use the building, till such time the statutory revision filed by the petitioner is disposed of in the manner known to law.
- (iii) Till such time the statutory revision is disposed of by the second



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respondent, the first respondent shall not initiate any coercive action

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No order as to costs.

Index : yes/no  
Neutral citation : yes/no

(S.S.S.R.,J.) (N.S.,J.)  
12.03.2024

ss

To

1. The Secretary to Government  
Housing and Urban Development Department  
Fort St.George  
Chennai 600 009
2. The Commissioner  
St.Thomas Panchayat Union No.1  
Chitlapakkam First Main Road  
Chitlapakkam  
Chennai 600 064



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SS

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