



W.P.No.27882 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

W.P.No.27882 of 2023

and

W.M.P.Nos.27377 & 27378 of 2023

1.A.Fakrudhin Ali Ahmed
2.A.Yasmin

... Petitioners

Vs.

1.The Additional Secretary (Technical),
Housing and Urban Development Department,
Secretariat,
Chennai – 600 009.

2.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Nataraj Maligai,
Egmore, Chennai – 600 008.

3.The Commissioner,
Tambaram Corporation,
Chennai – 600 045.



W.P.No.27882 of 2023

WEB COURT

4. Krishnamoorthy,
Selection Grade Co-operative Sub-Registrar (Rtd.,)
12/4, Muthu Street, Sorakkalpattu,
Cuddalore – 607 001.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the order passed by the 1st respondent vide Letter No.6006/UD-VII(1)/2020-8, dated 22.08.2023, and quash the same as illegal and arbitrary and further direct the 3rd respondent not to take any coercive action against the petitioners building which was situated at S.F.No.12/3 to 20/3, Plot No.18, Subam Nagar Part II, Zammin Pallavaram Village, Chennai - 600 044.

For Petitioner	:	Mr.G.Mohammed Aseef
For R1	:	Mr.M.Bindran Additional Government Pleader
For R2	:	Mr.C.N.Vinobha
For R3	:	Mr.P.Srinivas Standing Counsel
For R4	:	Mr.R.Manickavel



W.P.No.27882 of 2023

WEB COPY

ORDER

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

This is a peculiar case where the petitioner who has purchased the property by virtue of a fraudulent document and admitted atleast the facts which lead to such conclusion, challenges the order passed by the Government in the revision petition filed by the petitioner under Section 80(A) of the Tamil Nadu Town and Country Planning Act, 1971.

2.Brief facts that are necessary for the disposal of this writ petition are as follows :

The petitioner states that he purchased the property bearing Plot No.18, Subham Nagar Part II, comprised in S.R.No.13/7, 14, Old No.158, 125 & 90, New No.21, Zammin Pallavaram Village, Pallavaram Taluk, Kancheepuram District, from one R.Krishnamoorthy, the 4th respondent herein. Though the petitioner in the affidavit filed in support of this writ petition states that he purchased the property from the 4th respondent herein



W.P.No.27882 of 2023

through his Power of Attorney Agent by name S.Manohar by document of sale dated 27.03.2017, from the FIR that is registered pursuant to the complaint made by the 4th respondent, it is revealed that the 4th respondent was impersonated when one Manohar got the Power of Attorney Deed from one Krishnamoorthy. In other words, by getting a Power of Attorney Deed from another person with different identity, the Power Agent executed a sale deed in favour of petitioner.

3.The said Power of Attorney clearly reveals that the 4th respondent herein is not the person who executed the Power of Attorney Deed in favour of one Manohar who had executed the sale deed in favour of the petitioner. Therefore, the fraud perpetrated against the 4th respondent is revealed and from the sequence of events and facts that is borne out from records, the petitioner himself is expected to understand that fourth respondent did not convey the property. It is settled proposition of law that fraud vitiates every solemn transaction and the document under which the petitioner claims title does not create any right in his favour. However, this Court is not inclined to go further, as the suit filed by the petitioner as against the 4th respondent



W.P.No.27882 of 2023

and the suit filed by the 4th respondent are pending before the Civil Court.

WEB COPY

4.It is in these circumstances, this Court cannot presume that the petitioner has established his *prima facie* title in respect of the property where he had put up construction pursuant to an agreement he had entered into with a builder. The petitioner states that he obtained necessary planning permission through the builder. However, the petitioner appears to have produced a fake plan. It is now established on facts that the plan that was produced by the petitioner before the authorities is not with reference to the construction put up by the petitioner in the disputed property and the fact that the petitioner has constructed the building without an approved plan is admitted. It is in these circumstances, the respondents have initiated action for locking and sealing the premises.

5.The notice was again challenged by the petitioner before the 1st respondent by way of a revision petition under Section 80-A of the Tamil Nadu Town and Country Planning Act. The 1st respondent, by impugned order, dated 22.08.2023, dismissed the revision petition holding that the



W.P.No.27882 of 2023

building put up by the petitioner is totally unauthorised and that therefore, further action on the petitioner's building as per the provisions of the Town and Country Planning Act, should follow.

6.The fact that the petitioner has filed a suit for declaration of his title does not help the petitioner in the present case, since the petitioner has not disputed the impersonation of 4th respondent while the Power of Attorney Deed was obtained. There is no approval for the petitioner's building as it is admitted and held by the respondent.

7.It is in the said circumstances, this Court finds no merit in this writ petition. The petitioner may be a victim of fraud or a party to the fraud by which he sets up title in himself. In either way, this Court is not inclined to render any assistance to the petitioner to protect the construction. Therefore, with a direction to the official respondents to take appropriate action for demolition of the building and to report, **this writ petition is dismissed.** No costs. Consequently, connected miscellaneous petitions are closed.



W.P.No.27882 of 2023

WEB COPY

8.Post the matter after eight weeks for reporting compliance.

**(S.S.S.R., J.) (N.S., J.)
30.01.2024**

mkn

Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No

To

1.The Additional Secretary (Technical),
Housing and Urban Development Department,
Secretariat,
Chennai – 600 009.

2.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Nataraj Maligai,
Egmore, Chennai – 600 008.

3.The Commissioner,
Tambaram Corporation,
Chennai – 600 045.



WEB COPY



W.P.No.27882 of 2023

S.S. SUNDAR, J.
and
N. SENTHILKUMAR, J.

mkn

W.P.No.27882 of 2023

30.01.2024