



WP No.29131 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.B. BALAJI

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A.Ashok Kumar

: Petitioner

versus

- 1.The Government of Tamil Nadu
Represented by its Additional Secretary (Technical),
Housing & Urban Development Department,
Secretariat,
Chennai -600 009.
- 2.The Member Secretary,
Chennai Metropolitan Development
Authority (C.M.D.A.)
Thalamuthu Natarajan Bldg.,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008.
- 3.M/s.KGEYES Residency Private Limited,
No.10, 2nd Cross Street,
R.A.Puram, Chennai-600 028.
- 4.M/s.KGEYES UDITA Resident Welfare

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Association,
Represented by its Secretary,
No.1, First Cross Street,
Beach Home Avenue,
Besant Nagar, Chennai-600 090.

:Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari to call for the records relating to the impugned order passed by the first respondent vide letter No.5062974 /UD-VII(1) 2023-3 dated 15.11.2023 and communicated on 27.11.2023 and quash the same and consequently direct the second respondent to declare that creating more car parking as illegal and against the Tamil Nadu Combined Development and Building Rules, 2019 and pass orders.

For the Petitioner : Mr.K.V.Ananthakrishnan

For the Respondents : Mr.Abishek Murthy
Government Advocate
for first respondent

Mr.C.Manoharan
Standing Counsel
for CMDA
for third respondent

ORDER



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

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This writ petition is filed challenging the order passed by the first respondent vide letter No.5062974 /UD-VII(1) 2023-3 dated 15.11.2023 and for a consequential direction to the second respondent to declare that creating more car parking as illegal and against the Tamil Nadu Combined Development and Building Rules, 2019.

2. The petitioner has filed an appeal under Section 80 A of the Tamil Nadu Town and Country Planning Act, 1971 before the Government. The specific allegation of the petitioner is that the Chennai Metropolitan Development Authority issued show cause notice dated 24.05.2019 addressed to the petitioner to restore the parking lots as per the approved plan within 10 days, failing which necessary enforcement action will be taken on merits. Explanation has also been submitted by the petitioner's welfare association. The third respondent builder stated that there is no car parking allowed for his apartment.

3. The petitioner has also filed a compliant before the Tamil Nadu Real Estate Regulatory Act seeking for allotment of car parking. After



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hearing, the Tamil Nadu Real Estate Regulatory Authority dismissed the same on 09.02.2023. Based on the complaint made by the petitioner, CMDA had issued notice indicating some deviation in the construction of building from the original approved building plan, including some minor deviations in dimensions of the building sides and height of the building, apart there being no space for car parking.

4. It is seen that the allottees of the petitioner's association purchased the apartment based on the influence of the third respondent that the building is constructed according to the building approved plan. Therefore, the petitioner prayed the Government to suspend the proceedings of lock and seal till the disposal of the application. The CMDA also has furnished a report to the Government on 24.08.2023 and as per the approved plan under reference, the area of the petitioner, Ashok Kumar Flat bearing No.G-03 in first floor is found less than 75 sq.m which does not require car parking and it requires a two wheeler parking only as per the Development Control Rules and the same is provided in the approved plan. Hence, the same was informed to the petitioner vide letter dated 12.09.2019. The site



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under reference was inspected on 05.05.2022 by the respondent Corporation and found that there are diversions in the building set back space, floor space index, car parking, height of the building with reference to the approved plan. Opportunity was also granted to the objector/writ petitioner. According to them, car parking was not given to him and objection has been made by the petitioner before the Government and after hearing the parties, the Government has considered it and stated that as per the Tamil Nadu Combined Development and Building Rules, set aside the locking and sealing and demolition of notice and therefore no further interference arise against the petitioner. The Government order also held that A.Ashok Kumar has filed complaint petition before the Tamil Nadu Real Estate Regulatory Authority against the third respondent with regard to allotment of car parking. Tamil Nadu Real Estate observed that he is not entitled for car parking and rejected the complaint petition for devoid of merits and appeal also filed before the Appellate Tribunal by the objector namely the petitioner herein that was also dismissed. Allotment of the car parking for the objector is not within the purview of section 80A of the Tamil Nadu Town and Country Planning Act. The aforesaid factual dispute with regard to car



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parking, cannot be gone into under Article 227 of the Constitution of India.

Therefore, we need not go into the present dispute raised in the present writ petition. If at all the petitioner is having any grievances for allotment of the car parking as against the association, all his contention can be raised, in the pending CMSA before this Court.

5. With the above liberty, the writ petition stands dismissed. There shall be no order as to costs. Consequently, WMP No.31808 of 2024 is closed.

[D.K.K., J.] [P.B.B., J.]
03.10.2024

Index : Yes/No
Neutral Citation : Yes/No
mrn

To
1.The Additional Secretary (Technical)
Housing and Urban Development Department,
Secretariat, Fort St.George, Chennai-600009.



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2. The Member Secretary CMDA,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai-08.

D.KRISHNAKUMAR, J.
and
P.B. BALAJI, J.

(mrn)



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