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WP.No.9425 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

WP.No.9425 of 2024

S.Usha

Petitioner

Vs

1. The Member Secretary, Chennai Metropolitan Development Authority  
Chennai-8
2. The Commissioner, Greater Chennai Corporation, Chennai-3
3. The Zonal Officer, Corporation of Chennai, Zone-10  
Chennai-24
4. The Tamil Nadu Housing and Urban Development Department  
Chennai-9
5. G.Thyagarajan, Sole Proprietor, M/s.Sri Thyagarajan Enterprises  
Chennai-83 Respondents

Prayer:- This Writ Petition has been filed, under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the 2nd Respondent to take further enforcement action pursuant to the order dated 29.05.2023 in Letter No.5811/UD/6(3) passed by the 4th Respondent dismissing the revision Petition filed by the 5th Respondent under Section 80A of the Tamil Nadu Town and Country Planning Act, 1971 and to direct the 2nd Respondent to remove all the illegal constructions and the 5th Respondent to bear the cost on removing the



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illegal constructions within a time frame.

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For Petitioner : Mr.D.Prasanna

For Respondents : Mr.R.Sivakumar, Standing Counsel-R1  
Mr.E.C.Ramesh-RR2 and 3  
Mr.R.Vigneswaran-GA-R4

### ORDER

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

1. This Writ Petition is filed to issue a Writ of Mandamus to direct the 2nd Respondent to take enforcement action pursuant to the order dated 29.05.2023 in Letter No.5811/UD/6(3) passed by the 4th Respondent dismissing the revision Petition filed by the 5th Respondent under Section 80A of the Tamil Nadu Town and Country Planning Act, 1971 and to direct the 2nd Respondent to remove all the illegal constructions and the 5th Respondent to bear the cost on removing the illegal constructions within a time frame.
2. This Court heard the learned counsel on either side, considered their submissions and also perused the materials placed on record.
3. The Petitioner purchased a TNHB Flat in Ashok Nager. The Flats were constructed by the Tamil Nadu Housing Board pursuant to a residential scheme. It is stated by the Petitioner that each Block consists of four flats along with a common passage and other facilities. The 5th Respondent has also purchased a few Flats.
4. The contention of the Petitioner is that the 5th Respondent has put up



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unauthorised construction in the common area and thereby deminishing the right of the Petitioner and other flat owners. The Petitioner has submitted a few representations to the 2nd Respondent. Earlier the Petitioner has filed a Writ Petition in WP.No.3105 of 2022 and thereafter, the Corporation of Chennai has taken action against the unlawful construction and passed an order to lock and seal the premises on 09.02.2022. Thereafter, another communication for de-occupation was also issued to the 5th Respondent on 15.09.2022.

5. Though the 5th Respondent filed a statutory revision under the Tamil Nadu Town and Country Planning Act before the Government, the Petitioner has also submitted a representation before the 1st Respondent. Another Writ Petition was filed by the Petitioner in WP.No.3470 of 2023, wherein this Court directed the 4th Respondent to dispose of the statutory revision filed by the 5th Respondent under Section 80A of the Tamil Nadu Town and Country Planning Act, within a period of three months.
6. It is now admitted before this Court that the appeal filed by the 5th Respondent was disposed of by the 4th Respondent on 29.05.2023, directing the Corporation to take action under Section 56 of the Tamil Nadu Town and Country Planning Act. Since the 2nd Respondent has not taken any action, this Writ Petition has been filed.
7. Since the contesting 5th Respondent has not entered appearance despite



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service of notice and the Official Respondents have not filed any counter seriously disputing the averments made in this Writ Petition, this Court is inclined to pass the following order:-

- (a) The 2nd Respondent is directed to take appropriate action against the 5th Respondent, in accordance with law pursuant to earlier order, which was confirmed by the Government.
- (b) It is made clear that the Petitioner as well as the 5th Respondent shall be called for an enquiry to enquire as to the extent of unauthorised construction by the 5th Respondent and to take appropriate action following the earlier order.
- (c) In case, it is found that the 5th Respondent has encroached the common area or the land which are reserved for all the flat owners, the 2nd Respondent shall take coercive action for removal of superstructure and ensure that the 5th Respondent shall not to put up any construction or park his vehicles affecting any of the flat owners who have equal right in the common area being the owners of the flats, to whom the common area is meant for, within a period of twelve weeks from the date of receipt of a copy of this order.

8. With the above directions, this Writ Petition is disposed of. No costs.

(S.S.S.R.J.) & (N.S.J.)  
02.07.2024

Index:Yes/No  
Web:Yes/No  
Speaking/Non Speaking  
Neutral Citation: Yes/No



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To

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

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