



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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**DATED: 01-04-2025**

CORAM

**THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM  
AND  
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**WP No. 729 of 2025**

**and**

**WMP Nos.891, 893 & 895 of 2025**

1. Association Of Vasanth Apartments

Owners

(regn.No.18/2007) Rep. By Its General

Secretary, 100 Feet By Pass Road,

Velachery, Chennai 600042.

Petitioner(s)

Vs

1. The Chennai Metropolitan

Development Authority

Rep. By Its Member Secretary, No.1

Gandhi Irwin Road, Egmore, Chennai

600006.

2.The Greater Chennai Corporation

Rep. By Its Commissioner, Rippon

Buildings, Chennai 3.

3.G.T.Murugesan

S/o.G.Thangamani Nadar, No.35



Nainar Nadar Road, Mylapore,  
Chennai 4.

4.K.S.Dhasaradan

S/o.K.Subramaniya Nadar, No.84  
Dr.Natesan Road, Mylapore,  
Chennai 4.

5.R.Rathna Gurusamy

S/o.S.R.Ramalinga Nadar, No.1 Lloyds  
Road, Mylapore, Chennai 4.

6.R.Balasubramanian

S/o.S.R.Ramalinga Nadar, No.33  
Rakkiappa St., Mylapore, Chennai 4.

7.M.S.Rajamanickam

S/o.Late M.Sivagnanam, No.40/76  
C.P.Ramasamy Road, Alwarpet,  
Chennai 18. (power Agent Of The  
Respondents 3 To 6 Above)

8.R.Balachander

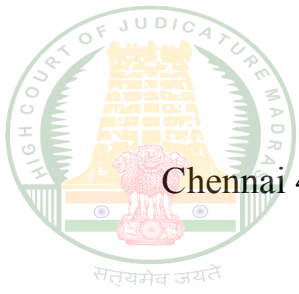
S/o.P.Ramachandran, 16 Ram Nagar,  
2nd Cross Street, Velachery,  
Chennai 42.

9.R.Pratabchander

S/o.P.Ramachandran, 16 Ram Nagar,  
2nd Cross Street, Velachery,  
Chennai 42.

10.R.Rajeshchander

S/o.P.Ramachandran, 16 Ram Nagar,  
2nd Cross Street, Velachery,



Chennai 42.

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11.Dr.N.Thirumurthy

Port Trust Officers Quarters, Near  
Napier Bridge, Varuna Salai, Stgeorge  
Fort, Chennai 9.

12.The Superintending Engineer

Tneb Chennai South (edc), Kk Nagar,  
Chennai 78.

13.The Inspector Of Police

Law And Order, Velachery Police  
Station, Velachery, Chennai 452.

14.The Chennai Metropolitan Water  
Supply

And Sewarage Board, Rep. By Its  
Managing Director, No.1 Pumping  
Station Road, Chintadripet, Chennai 2.

15.The Government Of Tamilnadu

Rep. By Its Secretary, Housing And  
Urban Development, Fort St. George,  
Chennai 9.

Respondent(s)

### **PRAYER**

Writ petition filed under Article 226 of the Constitution of India, for issuance of writ of Mandamus, to direct the respondents 1 and 2 to remove the illegal constructions made in the Type III building situated in survey No.380/5 of Velachery Village, Chennai 42 coming within the Group Development approved by the 1st respondent vide Planning permission and to



bring the Type III building as per the approved plan and to ensure that Type III building is dealt and maintained by the 11th respondent only as per the said approved plan issued by the 1st respondent.

For Petitioner(s): Mr.N.Subramaniyan

For Respondent(s): Mr.C. Manoharan,  
Standing Counsel (CMDA) For R1

Mr.A.S.Ragul Adhithya  
for Mrs.P.T.Ramadevi,  
Standing Counsel For GCC For R2

Not Ready in Notice For RR3 to 6

No Appearance For R7

Mr.T.S.Rajamohan For RR8 to 11

Ms.Sindhuza M.S.  
For Mr.L.Jai Venkatesh,  
Standing Counsel (TANGEDCO)  
For R12

Mrs.E.Renganayaki,  
AGP For RR13 and 15

Mr.J.Prakash Raj  
For Mr.Jerry V.V.Sundar,  
Standing Counsel (CMWSSB)  
For R14

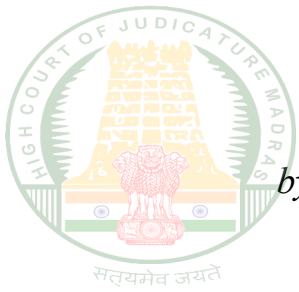
**ORDER**

WEB COPY (Order of the Court was made by S.M.Subramaniam J.)

The writ of Mandamus has been instituted to direct the respondents 1 and 2 to remove the illegal constructions made in the Type III building situated in survey No.380/5 of Velachery Village, Chennai 42 coming within the Group Development approved by the 1st respondent vide Planning permission and to bring the Type III building as per the approved plan and to ensure that Type III building is dealt and maintained by the 11th respondent only as per the said approved plan issued by the 1st respondent.

2. The Government has considered the issue relating to unauthorized construction and passed an order vide letter dated 02.05.2022 as follows:

*“11.It is observed that the site comprises of 11 Blocks with 243 dwelling units for which planning permission was issued in 1994. One of the blocks (Type III Building) has been constructed in violation of the approved plan. Ground + 1 floor was approved, but, second floor was constructed unauthorisedly. Further usage was also converted. The Resident Association has also raised objection. The appeal has been filed*

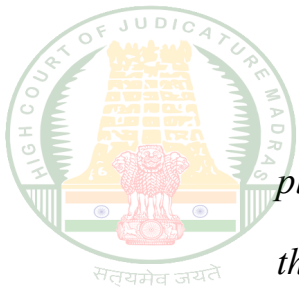


*by the owner of the Type III building.*

*12.Hence, the Government after careful examination of the available records in the appeal, hereby dispose the appeal with a direction to the appellants and all lawful owners to obtain revised planning permission as per rules in force, within a period of three months, failing which Chennai Metropolitan Development Authority is requested to pursue necessary action as per the provisions of the Tamil Nadu Town and Country Planning Act.”*

3. When the matter is taken up for hearing, the learned counsel for the respondents No.8 to 11 filed a counter affidavit stating that they themselves will demolish the entire building by obtaining permission from the CMDA to demolish the building. Paragraph 19 and 20 of the counter affidavit filed by the respondents 8 to 11 reads as under:

*“8.It is submitted that while referring to the earlier writ petition filed by the petitioner in W.P.No.29458 of 2010, which was disposed of on 21.06.2012, the petitioner makes allegation that factually incorrect observations were made as if application from 7<sup>th</sup> respondent is pending for regularization when no such*



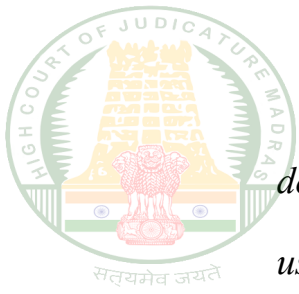
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*plea was made and that there was simple direction to dispose of the representation dated 10.10.2010 by the authorities.*

*9.I submit that sequel to the final order passed in the above W.P.No.29458 of 2010 and the order passed in Rev.Appl.No.131 of 2012 dated 21.06.2012 the authorities were directed to consider the representations of the writ petitioner. Moreover based on the representation seeking regularization of the superstructure, W.P.No.13891 of 2014 was filed wherein interim order was also granted until disposal of the Appeal No.6992 of 2014.*

*10.I submit that moreover in para 17 of the affidavit, the petitioner contends that the campus suffers due to change in use of Type III Building. According to the petitioner even though it admits that planning permission was given for group development still the petitioner insists that there shall not be permission to construct commercial building nor do commercial activities. Such a plea as raised in para 18 of the affidavit touches upon the right of the individual persons who are owning the property exercising right in rem.*

*11.I submit that the verbose claims made by the petitioner would demonstrate that the vested interest holding office are*

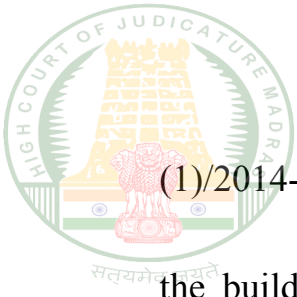


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*determine to see that the land comprised in Type III is not at all used for the simple reason that if the land is kept barren, the flats behind Type III will have very broader ingress and egress. Thus, it could be seen that it is the petitioner association comprised of the present set of office bearers who are disgruntled against the respondents 8 to 11. It is they who are interfering and meddling with the peaceful possession, occupation and enjoyment over the larger extent of land comprised in Type III.”*

4. The learned counsel Mr.Rajmohan would submit that the counter affidavit filed by Mr.R.Prathap Chander, Son of P.Ramachandran is adopted by the other respondents 9, 10 and 11. Thus all the contesting respondents 8 to 11 are bound by the counter affidavit filed.

5. In view of the said position, the first respondent Chennai Metropolitan Development Authority is directed to pass orders directing the respondents No.8 to 11 to demolish the entire subject building unauthorized, within a period of two (2) weeks from the date of receipt of a copy of this order based on the Government Order dated 02.05.2022 passed vide letter No.6728/ UD-VII



(1)/2014-9. After demolition of the entire unauthorized building, the owners of the building are at liberty to submit fresh application seeking building plan permission by following the due procedures as contemplated under law. The demolition of the unauthorized building is directed to be completed within a period of 30 days from the date of expiry of two weeks period granted to the CMDA to pass order of demolition.

6. With these directions, the writ petition stands disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are also stands closed.

**(S.M.SUBRAMANIAM J.) (K.RAJASEKAR J.)**

**01-04-2025**

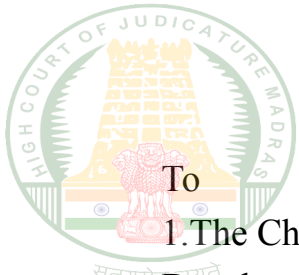
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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



To

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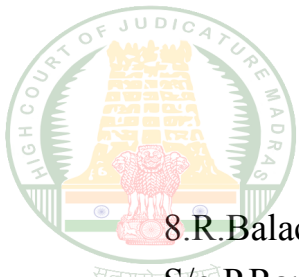
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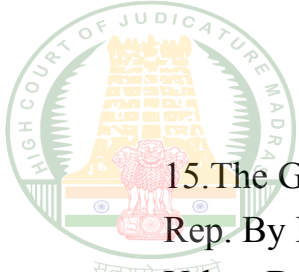
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