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W.P.No.9725 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2025

C O R A M

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

W.P.No.9725 of 2024

Mr.N.Raghavulu Naidu

... Petitioner

-VS-

1. The Principal Secretary,
Housing and Urban Development Department,
Secretariat, Chennai-600 009.
2. The Member Secretary,
Chennai Metropolitan Development Authority (CMDA),
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 048.

3. Dr.Geetha Haripriya

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to consider the representation dated 08.07.2023 given by the petitioner in respect of the conclusion of CMDA a letter No.Reg.113C/1584/2017 dated 01.04.2021 indicating the violations of the building owned by 3rd respondent and accordingly direct the authorities to return the regularization application filed by the 3rd



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respondent in Ref. No. CMDA/Re-113C/75/2017-113 dated 11.12.2017.

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For Petitioner : Mr.Gautam S.Raaman
For M/s.Raman and Associates

For R1 : Mr.P.S.Raman, Advocate General
For Mr.G.Nanmaran
Spl. Govt. Pleader

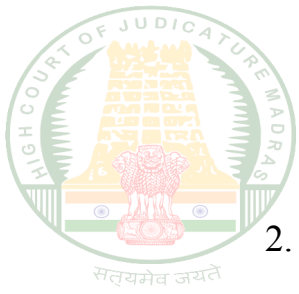
For R2 : Mr.Y.Bhuvanesh Kumar
Standing Counsel

For R3 : Mr.Murali Kumaran, Senior Counsel
For Mr.K.V.Sajeev Kumar

ORDER

(By J.Nisha Banu,J.)

This Writ Petition has been filed for a direction to the respondents 1 and 2 to consider the representation dated 08.07.2023 given by the petitioner in respect of the conclusion of CMDA in letter No.Reg.113C/1584/2017 dated 01.04.2021 indicating the violations of the building owned by 3rd respondent and to direct the authorities to return the regularization application filed by the 3rd respondent in Ref. No. CMDA/Re-113C/75/2017-113 dated 11.12.2017.



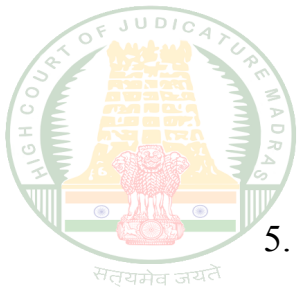
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2. The petitioner is residing in new no.48, MMDA Colony, Arumbakkam

Chennai-600 106. It is averred in the writ petition that the petitioner submitted a petition to CMDA/2nd respondent in respect of deviation/violation of the building of the 3rd respondent who runs a hospital viz., Prashanth Fertility Research Centre at No.77, Harrington Road, Chetpet, Chennai-600 031. In response to that, CMDA issued locking and sealing notice dated 29.02.2012 to the 3rd respondent, after conducting inspection and furnishing the deviation report.

3. The 3rd respondent filed W.P.Nos.7575 of 2012, 28745, 29124/2012 seeking to quash the above locking and sealing notice dated 29.02.2012. This court by order dated 21.07.2015, granted opportunity to the 3rd respondent to place its case before CMDA and further directed to restore the premises in question in conformity with the sanctioned plan by the CMDA.

4. The 3rd respondent filed planning permission application for the existing basement floor + Ground floor + 4 floors for the hospital building on 22.08.2014. The CMDA by Letter dated 21.12.2015, refused the planning permission for the construction.



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5. The second respondent/CMDA issued De-occupation Notice/letter dated 13.01.2016 stating that the 3rd respondent have not complied with the notice and that the building should secure the compliance with sanctioned plan of CMDA.

6. In the meantime, the 3rd respondent filed appeal under Section 79 of Tamil Nadu Town and Country Planning Act. The Secretary to Government, Housing and Urban Development Department (UD-V) Department, vide G.O.(3D).No.64 dated 25.02.2016, in exercise of powers conferred under Section 113 of the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972), exempted the existing Basement Floor + Ground Floor + 4 floors Hospital building from the provisions of Development Regulation No.6(11) and Development Regulation No.26(4) Note (i) relating to Set Backs all around; Development Regulations No.26(4)(D) relating to Floor Space index Development Regulation No.29(5) relating to Splay; Development Regulation No.26(4)(7)(a) and Annexure XVI relating to parking requirements and Development Regulation No.26(4)(6) and Annexure XVII relating to corridor width of Second Master Plan for Chennai Metropolitan Area 2026, subject to condition to demolish the 4th floor completely.



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WEB COPY 7. Thereafter, 2nd respondent CMDA issued Letter dated 03.06.2016 to the 3rd respondent requesting to adhere the Government Order within 15 days. Subsequently, by Letter dated 31.10.2016, CMDA informed the 3rd respondent that the site was inspected on 25.04.2016 and 09.09.2016 and found that the 4th floor has not been demolished as per G.O.(3D) dated 25.02.2016. Therefore, directed the 3rd respondent to demolish the unauthorised 4th floor. It is also seen that the Additional Secretary (Technical) by Letter dated 28.11.2017, granted one month time to demolish the unauthorised existing structures and directed the CMDA to obtain an undertaking from the 3rd respondent to that effect.

8. In pursuant to the above letters, the 3rd respondent filed Building Regularization Scheme application under Section 113-C of Tamil Nadu Country Planning Act and paid charges for the same. The 2nd respondent-CMDA by Letter dated 01.04.2021, found that the applicant has submitted application for Regularisation of existing hospital building and the Government has allowed appeal and issued G.O.(3D).No.64 H&UD-V Department dated 25.02.2016 exempting the existing building from setbacks all around subject to condition to



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demolish the unauthorised 4th floor completely. The 2nd respondent also pointed out that the 3rd respondent has not demolished the unauthorised construction of the 4th floor. The 2nd respondent also referred to decisions taken in similar writ petitions in W.P.No.23889/2017 and W.P.No.25818/2017 and that the order of the High Court is “Applications for regularisation may be entertained and processed, but no final decision thereon shall be taken without leave of the Court”.

9. Subsequently, by letter dated 04.10.2023, the 2nd respondent-CMDA informed the Petitioner herein that final orders in the Regularisation scheme will be taken after the final decision of the Hon'ble Court ; since the Prashanth Hospital obtained order dated 23.12.2022 in W.P.No.33925 of 2022 and the court ordered that the respondents 1 and 2 are restrained from taking any coercive steps against the applicant/hospital till the disposal of the application filed by them under Section 113C of TNT&CP Act, 1971. It is further pointed out that as per the High Court order dated 23.12.2022, subsequent enforcement action on the De-occupation Notice dated 18.05.2022 will be pursued on receipt of the disposal of the application filed under Section 113 C of TNT&CP Act, 1971.



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WEB COPY10. The petitioner stating that the 3rd respondent is not getting proper approval building and various other allegations filed the present writ petition seeking direction to the authorities to return the regularization application of the 3rd respondent.

11. Mr.Muralikumaran, learned Senior Counsel appearing for the 3rd respondent has contended that after obtaining the planning permission, the 3rd respondent constructed the building in the year 2005 and in fact, the 3rd respondent is entitled to construct one more floor. The 3rd respondent has put up a tiled roofing in the 4th floor for the purpose of canteen and laundry. He would further submit that as of now, the regularisation application made under Section 113-C was accepted and also the regularisation charges were also collected. The learned Senior counsel also pointed out that due to continued pressure inflicted by the petitioner which resulted in the 2nd respondent taking coercive action despite there being an order accepting for regularization and only final order need to be passed, the 3rd respondent approached this court by way of filing W.P.No.33925 of 2022 and this court by order dated 23.12.2022, directed the



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respondents therein and restrained from taking coercive steps against the 3rd respondent hospital, till the disposal of the application filed under Section 113(c) of Town and Country Planning Act.

12. The learned Senior counsel also pointed out that due to various other litigations pending between the petitioner and the 3rd respondent, the 3rd respondent has now filed this writ petition without any merits. It is stated that the petitioner, who is a friend of the 3rd respondent approached the 3rd respondent for contribution of funds to purchase plots allotted by the Housing Board to establish a school. The partnership firm in the name of M/s.Maruti and Company was formed and also a Trust was formed with the petitioner and 3rd respondent as one of the trustees. Thereafter, a dispute was raised by the petitioner, claiming that the petitioner and his wife are the absolute owners of the school and the land. Aggrieved by the same, the 3rd respondent filed O.P.No.15 of 2011, in which an Arbitrator was appointed. An Award was passed, holding that though the property was allotted in the name of the petitioner and his wife, it actually belongs to the Partnership Firm. The Partnership Firm was dissolved, giving preference to the petitioner's wife to buy the property and thereafter, to the 3rd



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respondent to buy the petitioner wife's share. Since there was no sufficient money available with the petitioner's wife, she was not ready to buy it, rather she challenged the Award in O.P.No.1068 of 2019. This Court, by an order dated 05.06.2024 partially set aside the award, against which, the 3rd respondent preferred O.S.A.No.78 of 2024, which is pending adjudication.

13. Learned Senior Counsel for the 3rd respondent further contended that due to personal vengeance, various complaints have been made by the petitioner to various authorities. The 3rd respondent in fact filed C.S.No.600 of 2013 seeking permanent injunction from publishing or making any defamatory statement by the petitioner. This Court, vide order dated 18.07.2013 granted interim injunction against the petitioner. The petitioner was enjoined from publishing or causing any act lowering the image of the 3rd respondent in the eye of public and thereby causing harm to the reputation of the 3rd respondent. Now, the suit is transferred to the City Civil Court and the petitioner, with ulterior motive has been disturbing the 3rd respondent.

14. The learned Senior counsel also contended that the petitioner has no

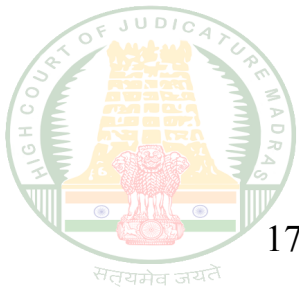


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locus to question the action taken by the 1st and 2nd respondent under Section 113(C) of the Act.

15. Heard both sides and perused the records.

16. It is seen from the facts narrated above that in the Regularisation Application, the Government passed G.O.(3D).No.64, dated 25.02.2016 exempting certain deviations in the building subject to condition to demolish the 4th floor completely. Thereafter, the petitioner filed 113-C application and paid charges for the regularisation of the existing building and also filed W.P.No.33925 of 2022 before this Court, seeking to forbear the respondents from in any way disturbing the functioning of the hospital. This court also by order dated 23.12.2022 in W.P.No.33925 of 2022, restrained the Official respondents from taking coercive steps against the 3rd respondent till the disposal of the application filed by her. As such, the relief sought for by the petitioner cannot be granted for the reason that the application cannot be returned by the authorities without taking any decision thereon.



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17. Furthermore, the validity of G.O.(Ms).No.110 and 111 is under

challenge before the Hon'ble Supreme Court in Civil Appeal No.6847 and 6849

of 2022 and the said matter is still pending. In any event, the petitioner is not an aggrieved party and he has no locus to seek the prayer sought for in this writ petition and therefore, the prayer sought for cannot be entertained. Accordingly, the Writ Petition is dismissed. No costs.

(J.N.B.J.) (M.J.R,J.,)
25.06.2025

Index: Yes / No

Internet: Yes / No

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To:

1. The Principal Secretary,
Housing and Urban Development Department,
Secretariat, Chennai-600 009.
2. The Member Secretary,
Chennai Metropolitan Development Authority (CMDA),
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
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AND
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