



W.P.No.5366 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2025

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CORAM

THE HON'BLE MR. JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR. JUSTICE K. RAJASEKAR

Writ Petition No.5366 of 2025

and

Writ Miscellaneous Petition No.5938 of 2025

- 1.Mr.K.Suresh
- 2.Mrs.Vijayam Narayanan
- 3.Mrs.Jayalakshmi Balasundaram
- 4.Mrs.Mythili Venkatraman
- 5.Mr.R.Ravishankar
- 6.Mr.V.Karuppuswamy
- 7.Mr.K.Murali
- 8.Mr.L.K.Amarnath
- 9.Mrs.Meera Manoj
- 10.Mr.K.Ramesh
- 11.Mr.P.Muddu Malla Reddy

... Petitioners

Vs.

- 1.The Additional Secretary (Technical),
Government of Tamil Nadu,
Housing and Urban Development Department,



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Secretariat, Fort St.George,
Chennai – 600 009.

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2.The Member Secretary,
Chennai Metropolitan Development Authority,
“Thalamuthu – Natarajan Maaligai,
No.1, Gandhi Irvin Road,
Egmore, Chennai – 600 008.

3.The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai – 600 003.

4.The Executive Engineer,
Greater Corporation of Chennai,
Zone-IX, No.1, Lake Area, 4th Cross Street,
Nungambakkam, Chennai – 600 034.

5.Mr.K.Mahendran

6.Ms.Iswarya Lakshmi and Natarajan

7.Mr.S.P.Ravikumar

8.Mrs.K.Ranganayaki

9.Mrs.K.Shantha

10.Mr.Satyanarayanan Sandeep

11.Mrs.Lalitha Muralikrishna

12.Mr.T.Karthikeyan

13.Mr.N.Periyakaruppan

14.Mr.K.Chandrasekar

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for
issuance of Writ of Certiorarified Mandamus to call for the records of the first
respondent culminating in the order dated 18.12.2023 made in Letter



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No.5379870/UD VI (3) /2023-5 and quash the same in respect of relief given to unauthorized units in Stilt and Terrace common areas at Rajathi Apartments bearing address as No.19/10, South Boag Road, T.Nagar, Chennai – 600 017 in contrast to the approved plan dated 12.11.1981 made in Plan No.468 of 1981 and B.A.No.71/81 by removing the construction caused by the respondents 7 to 14 by demolishing the unauthorized construction.

For Petitioners : Mrs.G.Thilagavathy, Senior Counsel
For Mr.R.Gophinath

For R1 : Mr.G.Ameedius
Government Advocate

For R2 : Mr.R.Sivakumar,
Standing Counsel for CMDA

For RR3 & 4 : Mr.D.B.R.Prabhu,
Standing Counsel for Greater Chennai Corporation

For RR5 & 7 : Mr.P.Giridharan

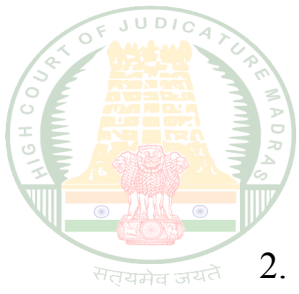
For R6 : Not ready in notice

For RR8 to 14 : Mr.Sivasubramanian

ORDER

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

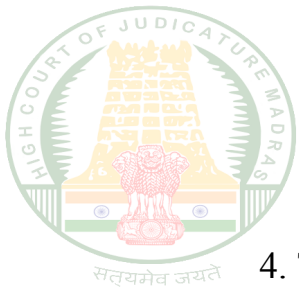
The writ petition has been instituted challenging the letter dated 18.12.2023 issued by the Government under Section 80-A of the Town and Country Planning Act, 1971.



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2. The subject building situated at Door No.19/10 Rajathi Apartments, South Boag Road, T.Nagar, Chennai-17. Since unauthorized constructions/deviations were made by the builders of the flats, Greater Chennai Corporation has issued Stop Work Notice / Notice calling for approved plan on 15.02.2012 and thereafter, issued Locking and Sealing Notice on 06.07.2012. De-occupation Notice was issued on 24.08.2012 stating that the use of the building is deviated from the sanctioned plan issued on 12.11.1981. Though notices and actions were initiated in the year 2012, the demolition of unauthorized constructions/deviations are delayed on account of multiplicity of proceedings at the instance of the parties either before the Corporation or Government or before the High Court.

3. The litigants are prolonging and protracting the enforcement actions by filing petitions and litigations. Such attitude of the litigants at no circumstances be encouraged neither by authorities nor by the Courts. After prolonged period, finally the government passed final orders in the revision petition in letter dated 18.12.2023. The revision order came to be challenged in the present writ petition.



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4. This Court heard the parties to the *lis* on hand.

5. It is not in dispute that the subject building has not been constructed in accordance with the building plan permission granted in the year 1981. Apparently, deviations / unauthorized constructions are found which has not been disputed between the parties. Change of use is also established. Taking note of all these factors, the Government also passed the impugned order and the relevant portion of the order at paragraph Nos.17 and 18 reads as under:

“17.After careful examination of the above facts and submission made, the Government hereby set aside the lock and seal notice dated 17.10.2023 and all other proceedings issued in respect of the building in the said premises. Greater Chennai Corporation is directed to issue a fresh locking and sealing notice stating all the deviations / violations to the approved plan obtained during 1981. The revision petitioners are granted three months time to obtain revised approval for the existing building satisfying the Tamil Nadu Combined Development and Building Rules, 2019. The application for planning permission shall be submitted jointly by all the lawful owners of the building. On expiry of the above said three months time the Greater Chennai Corporation shall proceed with necessary action as per the provisions in Tamil Nadu Town and Country



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Planning Act, 1971 if the petitioner failed to comply the above directions.

18.All the revision petitions filed under Section 80-A and 80A and 80A(3) of Tamil Nadu Town and Country Planning Act, 1971 stated in para one above are disposed accordingly.”

6. Curiously, even after disposal of the revision petition by the Government under Section 80-A of the Town and Country Planning Act, in December 2023, the Greater Chennai Corporation has not initiated any consequential actions. The Corporation ought to have issued a fresh notice mentioning the deviations / unauthorized constructions to continue the enforcement actions which stopped in the year 2012. Large scale collusion cannot be ruled out. Corrupt practices also cannot be ruled out. All these factors are to be addressed by the Corporation as well as the Government in dealing with such unauthorized constructions in urban areas.

7. Long delay in concluding the enforcement actions paved way for the occupants to protract the issues and to escape from the clutches of the enforcement actions. Thus, the inaction and delay on the part of the Corporation



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is to be deprecated. Regularization of unauthorized constructions cannot be done in view of the provisions of the Act and also the Judgment of the Hon'ble Supreme Court in the case of ***Rajendra Kumar Barjatya vs. U.P.Avas Evam Vikas Parishad*** reported in ***(2024) INSC 990***.

8. In the present case, pursuant to the Government Order issued under Section 80-A of the Town and Country Planning Act, 1971 in proceeding dated 18.12.2023 is to be implemented by issuing a fresh notice to the owners/occupants by mentioning the deviations/unauthorized constructions and all further actions are to be proceeded by following the procedures. As far as the challenge made in the present writ petition is concerned, this Court do not find any infirmity in respect of the Government Order passed under Section 80-A of the Town and Country Planning Act, 1971.

9. In view of the above findings, the Chennai Corporation is directed to proceed with the enforcement actions in the line as specified by the Government in letter dated 18.12.2023 passed under Section 80-A of the Town and Country Planning Act, 1971. The said action is directed to be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.



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WEB COPY 10. Accordingly, the Writ petition stands dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition also stands dismissed.

(S.M.S., J.) (K.R.S., J.)
20.03.2025
(1/2)

ssi

Index: Yes

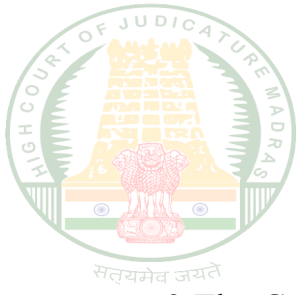
Speaking Order: Yes/No

Neutral Citation Case : Yes/No

To:

1.The Additional Secretary (Technical),
Government of Tamil Nadu,
Housing and Urban Development Department,
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Chennai – 600 009.

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Chennai Metropolitan Development Authority,
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S. M. SUBRAMANIAM., J.
AND
K. RAJASEKAR., J.

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