



W.P.No.10111 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2025

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THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MR.JUSTICE **MUMMINENI SUDHEER KUMAR**

W.P.No.10111 of 2023

and

W.M.P.No.10133 of 2023

J.Rajasekar Babu

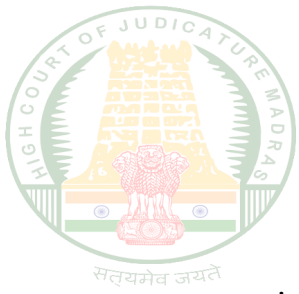
S/o.J.Subba Row

.. Petitioner

Vs.

1. The Hon'ble Principal Secretary
The Housing and Urban Development Authority
Fort St.George, Chennai-600 009.
2. The Member Secretary
Chennai Metropolitan Development Authority (CMDA)
No.1, Irwin Gandhi Road, Egmore
Chennai-600 008.
3. The Commissioner
Greater Chennai Corporation
Ripon Buildings, Park Town, Chennai-600 003.
4. The Executive Engineer - Zone IV
Greater Chennai Corporation
No.266, Thiruvottiyur High Road
Korukkupet, Old Washermanpet
Chennai-600 021.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus, to call for the records of the 1st respondent dated 31.05.2022 in Letter No.15894/UD VI(1)2019-3, in respect to the property bearing Door No.19/55, Ekambaram Street, Korukkupet, Chennai-600 021 and quash the same and to direct the 2nd respondent to dispose the regularization application filed by the petitioner vide Ack.No.CMDA/REG.113C/1605/2019 on 18.12.2019 in accordance with law.

For Petitioner : Mr.J.D.Srikanth Varma
For Respondents : Mr.P.Balathandayutham
Special Government Pleader, for R1
Mr.T.K.Saravanan,
Additional Government Pleader
representing Mr.R.Sivakumar,
Standing Counsel, for R2
Mr.D.B.R.Prabhu
Standing Counsel for R3 & R4

ORDER

[Order of the Court was made by M. SUNDAR, J.]

Captioned 'Writ Petition' {hereinafter 'WP' for the sake of brevity, convenience and clarity} has been filed with a prayer seeking issue of a writ of certitiorafied mandamus.

2. As regards certiorari limb of the prayer, writ petitioner has assailed an 'order dated 31.05.2022 bearing Letter No.15894/UD VI(1)/2019-3 made



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by R1' {hereinafter 'impugned order' for the sake of brevity, convenience and clarity}. As regards mandamus limb, writ petitioner has sought to mandamus R2 (sought a direction to R2) to dispose of writ petitioner's application for exemption under Section 113-C of 'the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972)' {hereinafter 'T&CP Act' for the sake of brevity, convenience and clarity} being application dated 18.12.2019.

3. To be noted, prayer does not say that mandamus limb is consequential to certiorari limb. Therefore, this Court shall deal with two limbs of the prayer one after the other.

4. Mr.J.D.Srikanth Varma, learned counsel on record for writ petitioner, Mr.P.Balathandayutham, learned Special Government Pleader for R1, Mr.T.K.Saravanan, learned Additional Government Pleader representing Mr.R.Sivakumar, learned Standing Counsel for R2 - CMDA and Mr.D.B.R.Prabhu, learned Standing Counsel for R3 and R4 (GCC) are before us.

5. Property that is subject matter of the captioned main WP is situate at 'No.19/55, Ekambaram Street, Korrukupet, Chennai-600 021'



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{hereinafter 'said property' for the sake of brevity, convenience and clarity}.

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Writ petitioner contends that he is the absolute owner of said property, he has obtained sanction plan as a house site but is admittedly running a Kalayana Mandapam in the name and style of M/s.Subbarow Mahal. It is in this context that the writ petitioner was visited with a 'lock and seal notice dated 16.07.2019' {hereinafter 'impugned L&S notice' for the sake of brevity, convenience and clarity} on the ground that there are at least four deviations / violations as regards superstructure, the details of which are as follows:

SI. No.	Description	As per approved	As on site	Unauthorised portion
1.	Ground Floor (Residential)	245.02 sq.m	324.87 sq.m (car parking commercial)	324.87 sq.m (unauthorised construction)
2.	First Floor (Residential)	245.02 sq.m	324.87 sq.m (Marriage Hall - commercial)	324.87 sq.m (unauthorised construction)
3.	Second Floor (Residential)	-	324.87 sq.m (Dining Hall - Commercial)	324.87 sq.m (unauthorised construction)
4.	Third Floor (Temporary Kitchen Shed and Waiting Room)	-	50.00 sq.m	50.00 sq.m (unauthorised construction)



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6. Assailing the afore-referred impugned L&S notice issued by GCC,

writ petitioner filed an application under Section 80-A of T&CP Act and this application was disposed of by R1 in and vide impugned order. As already alluded to supra, this impugned order is assailed vide certiorari limb. A careful perusal of impugned order in the light of the case file before us and submissions of learned counsel for writ petitioner brings to light that writ petitioner is neither disputing factum that the sanction plan qua said property is sanctioned as a house site but he is using it as Kalyana Mandapam nor the writ petitioner disputing the deviations set out in tabulation supra. To be noted, the tabulation is the extract from the impugned L&S notice of GCC. All that the writ petitioner says is, exemption application under Section 113-C of T&CP Act is pending with 'CMDA' ['Chennai Metropolitan Development Authority']. In this view of the matter, we find no infirmity in the impugned order. Another buttressing view is, writ petitioner has sought review of the impugned order by resorting to Section 81 of T&CP Act and this review was also negatived as not maintainable by R1 in and vide order dated 18.10.2022 bearing Letter No.3103166/UD-VI(1)/2022-1. This order of R1 has not been assailed by



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writ petitioner and it has been given quietus. We thus, find no reason to accede to the certiorari limb of the prayer. This means that certiorari limb of the prayer is negatived and the same is dismissed.

7. This takes this Court to mandamus limb of the prayer. As already alluded to supra, mandamus limb even according to writ petitioner has not been described as a consequential prayer qua certiorari limb. Be that as it may, as regards mandamus limb, writ petitioner has filed an application under Section 113-C on 18.12.2019. To be noted, writ petitioner, even according to application placed before us has paid a sum of Rs.15,145/- as opposed to total charges of Rs.26,41,557.07 and writ petitioner is admittedly using the said property as Kalyana Mandapam. There are serious doubts as to whether Rules / Scheme made under Section 113-C existed on 18.12.2019 as a Hon'ble Division Bench of this Court in and by an order dated 06.02.2019 in Contempt Petition No.1087 of 2017 and W.P.No.24705 of 2017 and Sub Application No.210 of 2017 thereat had quashed the scheme under Section 113-C but we leave this question open as the matter has been carried to Hon'ble Supreme Court and Hon'ble Supreme Court is in seizin of the matter vide C.A.Nos.6847-6648 of 2022. We are informed by



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learned State Counsel that last listing in Hon'ble Supreme Court was on 07.07.2025. Suffice to say that R2 will do well to abide by orders of Hon'ble Supreme Court as regards Section 113-C application of writ petitioner. It is open to R2 to move Hon'ble Supreme Court in this regard, if so advised and if so desired. Mandamus limb of the prayer thus answered.

8. Ergo, the sequitur is, certiorari limb is dismissed. Prayer in the captioned 'Writ Miscellaneous Petition' {'WMP'} namely, W.M.P.No.10133 of 2023 is for stay of impugned order. As certiorari limb fails, captioned WMP also perishes and the same is also dismissed. As regards mandamus limb, the same has been answered in the aforesaid manner.

Captioned WP disposed of in the aforesaid manner. There shall be no order as to costs.

(M.S.,J.)

(M.S.K.,J.)

01.09.2025

mk

Speaking / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No



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**M.SUNDAR, J.,
and
MUMMINENI SUDHEER KUMAR, J.,**

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To

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(2/2)**