



WP No. 10607 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-04-2025

WEB COPY

CORAM

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

**WP No.10607 of 2024
AND
WMP No.11672 OF 2024**

1. N.S.Raveendran
S/o N.K. Sekharan G-a Ramaniyam
Swarnamukhi No 39 Arundale Beach
Road, Kalashetr Colony Besant Nagaar
Chennai 600 090

Petitioner(s)

Vs

1. State of Tamil Nadu, Rep By Its Chief
Secretary (Housing And Urban Development
Department) Fort St George Chennai 600 009

2.Chennai Metropolitan Development
Authority, Rep By Its Member Secretary,
Thalamuthu Natarajan Maaligai, No. 1,
Gandhi Irwin Road, Egmore,
Chennai - 600 008

3.CMDA Enforcement Cell, South -i
O/o. Chennai Metropolitan Development
Authority, Thalamuthu Natarajan Maaligai,



No.1, Gandhi Irwin Road, Egmore,
Chennai - 600 008.

4.The Commissioner / Additional Chief
Secretary, Greater Chennai Corporation,
Ripon Building, Chennai - 600 003.

5.Ashwin Varma
S/o Krishna Varma 2A Ramaniyam
Swarnamukhi No.39 Arundale Beach Road,
Kalashetra Colony, Besant Nagar,
Chennai 600 090

Respondent(s)

WMP No. 11672 of 2024

1. N.S.Raveendran
S/o N.K. Sekharan G-a Ramaniyam
Swarnamukhi No 39 Arundale Beach
Road, Kalashetr Colony Besant Nagaar
Chennai 600 090

Petitioner(s)

Vs

1. State Of Tamil Nadu, Rep By Its Chief
Secretary (Housing And Urban
Development Department) Fort St George,
Chennai 600 009

2.Chennai Metropolitan Development
Authority, Rep by its Member Secretary,
Thalamuthu Natarajan Maaligai, No. 1,
Gandhi Irwin Road, Egmore,
Chennai - 600 008

3.Cmda Enforecement Cell, South -i
O/o. Chennai Metropolitan Development



Authority, Thalamuthu Natarajan Maaligai,
No.1, Gandhi Irwin Road, Egmore,
Chennai - 600 008.

WEB COPY

4.The Commissioner / Additional Chief
Secretary, Greater Chennai Corporation,
Ripon Building, Chennai - 600 003.

5.Ashwin Varma
S/o Krishna Varma 2a Ramaniyam
Swarnamukhi No 39 Arundale Beach Road,
Kalashetra Colony Besant Nagar,
Chennai 600 090

Respondent(s)

WP No. 10607 of 2024

PRAYER

Directing the 1st Respondent herein to dispose of the statutory Appeal preferred by the petitioner before the 1st Respondent under Sec. 80 A of the Tamil Nadu Town and country planning Act 1971 appeal No. Nil dated 25.09.2023 which is bearing Ref file No B2 / 28431 / 2000 seeking for regularization of the offending constructions effected by the builder and promoter in respect of the petitioners flat situate at No. G-A, Ramaniyam Swarnamukhi, No 39, Arundale Beach Road Kalashetra Colony, Besant Nagar, Chennai 600 090.

WMP No. 11672 of 2024

PRAYER

To grant stay of all further proceedings pursuant to the Lock and seal notice issued by the 2nd Respondent in Notice No. EC / S-I / 2409 / 2023 dated 11.9.2023 in view of the statutory appeal of the petitioner pending before the 1st Respondent in Appeal No. Nil dated 25.09.2023 which is bearing Ref file No B2 / 28431 / 2000 pending disposal of the above writ petition



WEB COPY

WP No. 10607 of 2024



For Petitioner(s): Mr.R. Thilagarajan

For Respondent(s): Mr.G.Ameedius,
Government Advocate For R1

Mr. R. Sivakumar, Senior Counsel
For CMDA For RR2 & 3

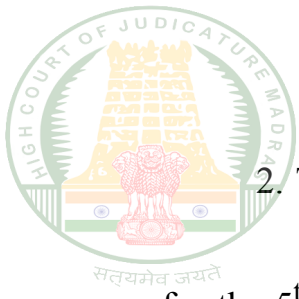
Mr. D.B.R. Prabhu,
Senior Counsel For GCC For R4

Ms.Ramya Muralikumaran
For M/S. McGAN LAW FIRM
For R5

ORDER

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

The writ of mandamus has been instituted to direct the first respondent to dispose of the statutory appeal preferred by the petitioner before the Government under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971. Further, it is prayed that the petition is for seeking regularization of the offending construction effected by the builder and promoter in respect of the petitioners flat at G-A, Ramaniyam, Swarnamikhi, No.39, Arundale Beach Road, Kalashetra Colony, Besant Nagar, Chennai-90.



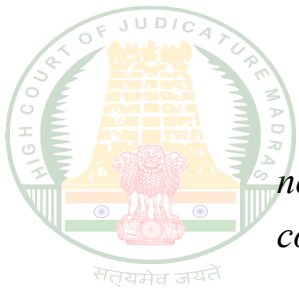
2. Though the prayer sought for seems to be simple, the learned counsel for the 5th respondent brought certain facts, which have not been clearly stated in the present writ petition, and to be considered by this Court.

3. It appears that building violations/deviations are committed by the builder namely Ramaniyam Real Estate Limited. The 5th respondent made a complaint to demolish the unauthorized constructions/deviations and restore the building as per the building plan approval granted. Since no action was taken, the 5th respondent filed a writ petition in W.P.No.23700 of 2023 seeking a writ of mandamus to the official respondents to take action against the private respondents for their statutory violations and illegal activities. The Division Bench of this Court considered the facts and passed final orders on 08.03.2024 as follows:

“21.In view of the above observation, the Writ Petition is allowed with following directions:-

(i) The first and second respondents are directed to forthwith take action to restore the non FSI area as per the sanctioned plan and handover the same to the apartment owners for its common usage;

(ii)The 1st and 2nd respondents are directed to take



WEB COPY

necessary enforcement action to remove all the unauthorized construction in the common area.

(iii) The 1st and 2nd respondents are directed to serve necessary notice to the flat owners/occupiers and take action as directed above and complete the above exercise within a period of twelve weeks from the date of receipt of a copy of this order.”

4. Pursuant to the said order of the Division Bench, the CMDA issued notice for initiating enforcement action in compliance with the directions issued by the Division Bench of this Court in W.P.No.23700 of 2023.

5. At that juncture, the petitioner in the present writ petition filed a revision under Section 80-A of the Tamil Nadu Town and Country Planning Act challenging the action initiated by the CMDA pursuant to the directions issued by this Court. Not stopping with that, the writ petitioner filed the present writ petition in W.P.No.10607 of 2024 for a direction to dispose of the revision petition filed by him under Section 80-A of the Town and Country Planning Act.

6. Primarily, the writ petitioner ought to have challenged the said order of the Division Bench dated 08.03.2024 before the Higher Court. Once the



WEB COPY

Division Bench passed final orders, re-litigating the same issue by filing another writ petition is impermissible. However, in the present case, the writ petitioner filed the present writ petition, for a simple prayer to dispose of the revision petition under Section 80-A of the Act. This Court is of the considered view that once a direction has been issued by the Division Bench of this Court to demolish the unauthorized construction, a revision petition filed under Section 80-A of the Tamil Nadu Town and Country Planning Act is not entertainable by the Government. Once the issues are decided by the Division Bench, Government cannot re-adjudicate the same issue relating to the complaint of unauthorized constructions/deviations by entertaining a revision petition.

7. Meanwhile, the 5th respondent filed a review petition before this Court, on the ground that the order of direction, directing the Government to dispose of the revision petition was issued at the admission stage without hearing the 5th respondent. Therefore, the Government passed an order in Section 80-A revision petition that the order passed by the Government dated 21.11.2024 is subject to the outcome of the review petition filed by the 5th respondent in the



present writ petition. Pertinently, the Rev. Appl. (Writ) No.195 of 2024 filed by the 5th respondent was allowed by the Division Bench of this Court on 04.12.2024 and the writ petition was restored for fresh adjudication. In this backdrop, the present writ petition is heard.

8. Mr.R.Thilagarajan, learned counsel appearing on behalf of the petitioner would submit that the Government has passed an order in 80-A revision petition in proceeding dated 21.11.2024 and therefore, the writ petition is to be closed.

9. However, the Ms.Ramya Murali Kumaran, learned counsel appearing on behalf of the 5th respondent would oppose by stating that the writ petition is liable to be dismissed mainly on the ground that the review petition filed by the 5th respondent was allowed by this Court and the Government also passed an order in proceeding dated 21.11.2024 subject to the final order to be passed in the review petition. Therefore, the writ petition itself is not maintainable.



10. This Court is of the considered view that the present writ petition filed by the writ petitioner is not maintainable, in view of the fact that in the earlier writ petition filed by the 5th respondent, the writ petitioner herein is the party respondent. The writ petitioner participated in the process of adjudication. The Division Bench of this Court passed final orders on 08.03.2024 directing the CMDA to forthwith take action to restore the non FSI area as per the sanctioned plan and handover the same to the apartment owners for its common usage. Further direction was issued to take enforcement action to remove all unauthorized constructions in the common area. Yet another direction was issued to serve necessary notice to the flat owners/occupiers to take action as per the directions.

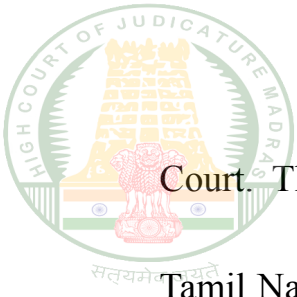
11. The issues reached finality and a direction was issued. Any person aggrieved may prefer an appeal before the higher Court. But in the present case, the petitioner has chosen to file a revision petition under Section 80-A of the Tamil Nadu Town and Country Planning Act before the Government and a fresh writ petition seeking a direction to dispose of the revision petition.



WEB COPY

12. Pertinently, the Division Bench issued direction on 08.03.2024. The revision petition was filed by the petitioner before passing an order by this Court. However, the revision petition was not disposed of at the time of passing of the final order by the Division Bench in W.P.No.23700 of 2023 dated 08.03.2024. Thus the Government ought not to have entertained the revision petition filed by the petitioner under Section 80-A of the Tamil Nadu Town and Country Planning Act. Since, both the parties have obtained an order of direction from this Court, the Government passed final orders. The practice of filing multiple writ petitions and not placing the entire facts before the Court at the time of arguments are resulting in such chaos and therefore this Court is not approving the actions of the petitioner in the present case.

13. The Government observed that the petitioner is aged about 80 years, having distinguished military service, marked by the award of “Vishishta Seva Madal” and his wife aged about 75 years suffering from severe illness, they deserve respect, dignity and protection from sudden displacement. Though the observation seems to be appealing, it is to be considered separately and not by filing such writ petitions after issuing a direction by the Division Bench of this



Court. Therefore, the Government Order passed under Section 80-A of the Tamil Nadu Town and Country Planning Act cannot have any force, in view of

WEB COPY

the order of the Division Bench of this Court dated 08.03.2024 passed in W.P.No.23700 of 2023, which is to be implemented in all respects.

14. Since the CMDA has initiated enforcement action, they are at liberty to continue the same as per the orders of the Division Bench in W.P.No.23700 of 2023.

15. With the above direction the writ petition stands dismissed. No costs. If at all any grievance exists, the parties are at liberty to seek appropriate remedy, if any under law and to sue the builder/promoter who sold the property for appropriate relief.

16. The presentation of the learned counsel Ms.Ramya Murali Kumaran stands appreciated.

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

24-04-2025

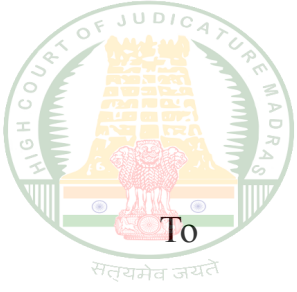
ssi

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



WP No. 10607 of 2024

To

WEB COPY

1.State Of Tamil Nadu, Rep By Its Chief Secretary
(housing And Urban Development Department)
Fort St George, Chennai 600 009

2.Chennai Metropolitan Development Authority
Rep by its Member Secretary, Thalamuthu
Natarajan Maaligai, No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008

3.Cmda Enforecement Cell, South -i
O/o. Chennai Metropolitan Development
Authority, Thalamuthu Natarajan Maaligai, No.
1, Gandhi Irwin Road, Egmore,
Chennai - 600 008.

4.The Commissioner / Additional Chief
Secretary, Greater Chennai Corporation,
Ripon Building, Chennai - 600 003.

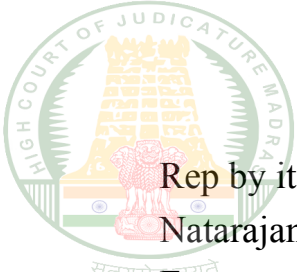
5.Ashwin Varma
S/o Krishna Varma 2A Ramaniyam
Swarnamukhi, No.39 Arundale Beach Road,
Kalashetra Colony, Besant Nagar,
Chennai 600 090

WMP No. 11672 of 2024

To

1.State Of Tamil Nadu, Rep By Its Chief
Secretary, (housing And Urban Development
Department) Fort St George Chennai 600 009

2.Chennai Metropolitan Development Authority



Rep by its Member Secretary, Thalamuthu
Natarajan Maaligai, No. 1, Gandhi Irwin Road,
Egmore, Chennai - 600 008

WEB COPY

3.Cmda Enforcement Cell, South -i
O/o. Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maaligai, No. 1, Gandhi
Irwin Road, Egmore, Chennai - 600 008.

4.The Commissioner / Additional Chief Secretary
Greater Chennai Corporation, Ripon Building,
Chennai - 600 003.

5.Ashwin Varma
S/o Krishna Varma 2a Ramaniyam Swarnamukhi
No 39 Arundale Beach Road, Kalashetra Colony
Besant Nagar Chennai 600 090



WEB COPY

WP No. 10607 of 2024



S.M.SUBRAMANIAM J.
AND
K.RAJASEKAR J.

ssi

WP No. 10607 of 2024
AND WMP NO. 11672
OF 2024

24-04-2025