



WEB COPY

W.P.No.10189 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2025

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

W.P.No.10189 of 2025
and
W.M.P.No.11437 of 2025

GREEN VALLEY EDUCATIONAL TRUST,
REP. BY ITS MANAGING TRUSTEE,
DR. K. JACOB DHARMARAJ,
NO 2, KALAMEGAM ROAD,
MOGAPPAIR WEST,
CHENNAI 37.

...Petitioner

Versus

1. CHENNAI METROPOLITAN DEVELOPMENT AUTHORITY,
REP. BY ITS MEMBER SECRETARY,
THALAMUTHU - NATARAJAR MALIGAI,
NO 1 GANDHI IRWIN ROAD,
EGMORE, CHENNAI-08.
2. THE COMMISSIONER,
GREATER CHENNAI CORPORATION,
RIPON BUILDINGS,
CHENNAI- 600 003.
3. THE EXECUTIVE ENGINEER,
CORPORATION OF CHENNAI,
ZONAL OFFICE - VII, AMBATTUR, CHENNAI.

Respondents



W.P.No.10189 of 2

Prayer: Petition filed under Article 226 of the Constitution of India, to issue writ of mandamus, directing the 2nd Respondent to refrain from taking any coercive steps including demolition of the building at No. 2, Kalamegam Road, Mogappair West, Chennai -03 till the disposal of the regularization application dated 15.09.2021 filed by the petitioner trust by 1st respondent.

For Petitioner : Mr.C.P.Sivamohan
for Mr.K.Santhosh Kumar

For R1 : Mr.Akhil Akbar Ali
Standing Counsel

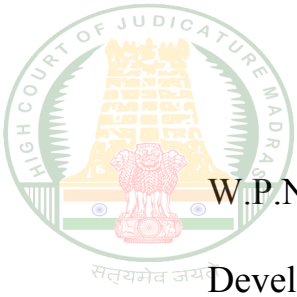
For R2 & R3 : Mrs.Aswini Devi.K
Standing Counsel

ORDER

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

The writ of mandamus has been instituted to direct the 2nd Respondent to refrain from taking any coercive steps including demolition of the building at No. 2, Kalamegam Road, Mogappair West, Chennai -03 till the disposal of the regularization application dated 15.09.2021.

2. The present writ petition is the off suit to the order passed by this Court in W.P.No.38119 of 2024 dated 11.03.2025. (1) Mr.M.Gabriel Dayanand, (2) Mr.M.Jaiprakash Nathaniel and (3) Mr.Benston Thasiah filed



W.P.No.10189 of 2024

W.P.No.38119 of 2024 seeking a direction to Chennai Metropolitan Development Authority and Greater Chennai Corporation to perform their statutory public duty under Section 56 of the Tamil Nadu Town and Country Planning Act, 1971 to restore the land in Town Survey Nos.5/7, 6/1, Athipet, Ward, Ambattur Taluk, Chennai District to its original condition by demolishing the unauthorised construction. This Court heard the matter on merits. The Zonal Officer, Zone VII, Greater Chennai Corporation conducted field inspection and survey and submitted a detailed report which was considered by this Court and order was passed directing the Authorities to complete the enforcement actions already initiated by following the procedures.

3. Soon after the action has been taken by the Corporation Authorities to demolish the building in pursuance to the orders of this Court dated 11.03.2025, wherein, the writ petitioner is a party, the present writ petition has been filed on the ground that regularization application dated 15.09.2021 is pending. Till the disposal of the regularization application, no further action is to be initiated.



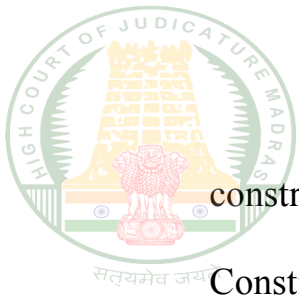
W.P.No.10189 of 2

WEB COPY

4. Learned Counsel appearing for the petitioner reiterated that the petitioner has got fair chance of success in getting the building regularised and therefore, till such time a direction is to be issued forbearing the respondents from initiating coercive action.

5. The relief as such sought for in the present writ petition is not entertainable. High Court cannot grant seal of approval to unauthorised constructions, more superficially when a direction was issued by this court to complete the enforcement action already initiated by following the procedures. Such writ petitions if entertained, would result in an anomalous situation and it will pave way for corrupt practices in Government Departments / Local bodies. Once unauthorised constructions are identified by the competent Authorities and actions are initiated already by following the procedures as contemplated and notice was issued and building was sealed in the present case, there is no further scope for entertaining the present writ petition.

6. The present writ petition has been instituted only with an idea to prolong and protract the enforcements actions, which cannot be encouraged by the High Court. Any misplaced sympathy in the matter of unauthorised



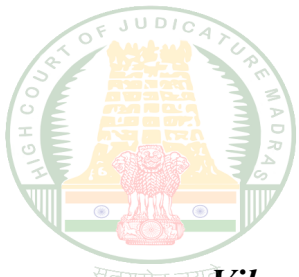
W.P.No.10189 of 2

constructions in public area would affect the public right under the Constitution of India.

WEB COPY

7. Large scale building violations are causing environmental damages, air pollution, nuisance and inconvenience to the neighbours and the road users. Therefore, Courts cannot encourage such unauthorised constructions or dilute the process already initiated by the competent Authorities under the provisions of the Act and Rules. This exactly is the reason why the Constitutional Courts have repeatedly emphasis that no misplaced sympathy in enforcement actions and such sympathy must result in denial of basic right of all other citizens who have right to life in a peaceful manner under the Constitution.

8. Greedy men are constructing building in violation of the building Rules from and out of their greediness in order to earn more money, such violations are committed without due respect to the fellow citizen and the Society at large. Therefore, such persons do not deserve any leniency from the hands of the High Court.



W.P.No.10189 of 2

9. In the case of ***Rajendra Kumar Barjatya Vs. U.P.Avas Evam***

Vikas Parishad reported in ***2024 INSC 990*** passed Judgment *in rem.*

WEB COPY

Paragraph No.21 of the Judgment reads as under:

"Directions in the matter of demolition of structures (supra):

(i) While issuing the building planning permission, an undertaking be obtained from the builder/applicant, as the case may be, to the effect that possession of the building will be entrusted and/or handed over to the owners/beneficiaries only after obtaining completion/occupation certificate from the authorities concerned.

(ii) The builder/developer/owner shall cause to be displayed at the construction site, a copy of the approved plan during the entire period of construction and the authorities concerned shall inspect the premises periodically and maintain a record of such inspection in their official records.

(iii) Upon conducting personal inspection and being satisfied that the building is constructed in accordance with the building planning permission given and there is no deviation in such construction in any manner, the completion/occupation certificate in respect of residential / commercial building, be issued by the authority concerned to the parties concerned, without causing undue delay. If any deviation is noticed, action



WEB COPY



W.P.No.10189 of 2

must be taken in accordance with the Act and the process of issuance of completion/occupation certificate should be deferred, unless and until the deviations pointed out are completely rectified.

(iv) All the necessary service connections, such as, Electricity, water supply, sewerage connection, etc., shall be given by the service provider / Board to the buildings only after the production of the completion/occupation certificate.

(v) Even after issuance of completion certificate, deviation / violation if any contrary to the planning permission brought to the notice of the authority immediate steps be taken by the said authority concerned, in accordance with law, against the builder / owner / occupant; and the official, who is responsible for issuance of wrongful completion /occupation certificate shall be proceeded departmentally forthwith.

(vi) No permission /licence to conduct any business/trade must be given by any authorities including local bodies of States/Union Territories in any unauthorized building irrespective of it being residential or commercial building.

(vii) The development must be in conformity with the zonal plan and usage.

Any modification to such zonal plan and usage must be taken by strictly following the rules in place and in consideration of the larger public interest and the impact



WEB COPY

W.P.No.10189 of 2



on the environment.

(viii) Whenever any request is made by the respective authority under the planning department/local body for co-operation from another department to take action against any unauthorized construction, the latter shall render immediate assistance and co-operation and any delay or dereliction would be viewed seriously. The States/UT must also take disciplinary action against the erring officials once it is brought to their knowledge.

(ix) In the event of any application / appeal / revision being filed by the owner or builder against the non-issuance of completion certificate or for regularisation of unauthorised construction or rectification of deviation etc., the same shall be disposed of by the authority concerned, including the pending appeals / revisions, as expeditiously as possible, in any event not later than 90 days as statutorily provided.

(x) If the authorities strictly adhere to the earlier directions issued by this court and those being passed today, they would have deterrent effect and the quantum of litigation before the Tribunal / Courts relating to house / building constructions would come down drastically. Hence, necessary instructions should be issued by all the State/UT Governments in the form of Circular to all concerned with a warning that all directions must be scrupulously followed and failure to do so will be viewed seriously, with departmental action



WEB COPY



W.P.No.10189 of 2

being initiated against the erring officials as per law.

(xi) Banks / financial institutions shall sanction loan against any building as a security only after verifying the completion/occupation certificate issued to a building on production of the same by the parties concerned.

(xii) The violation of any of the directions would lead to initiation of contempt proceedings in addition to the prosecution under the respective laws.

10. Since this Court has already directed the Authorities to complete the enforcement actions within a period of six weeks, the present writ petition is unnecessary and filed with an idea to prolong and protract the enforcement actions.

Accordingly, the Writ Petition stands **dismissed**. No costs.
Consequently, connected miscellaneous petition is closed.

[S.M.S., J.] [K.R.S., J.]
20.03.2025

veda

Index:Yes/No

Speaking order/Non-speaking order

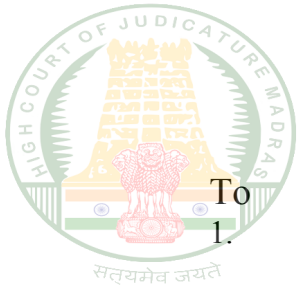
Neutral Citation:Yes/No



WEB COPY

W.P.No.10189 of 2





WEB COPY

W.P.No.10189 of 2022



To
1.

CHENNAI METROPOLITAN DEVELOPMENT AUTHORITY,
REP. BY ITS MEMBER SECRETARY,
THALAMUTHU - NATARAJAR MALIGAI,
NO 1 GANDHI IRWIN ROAD,
EGMORE, CHENNAI-08.

2.

THE COMMISSIONER,
GREATER CHENNAI CORPORATION,
RIPON BUILDINGS,
CHENNAI- 600 003.

3.

THE EXECUTIVE ENGINEER,
CORPORATION OF CHENNAI,
ZONAL OFFICE - VII, AMBATTUR, CHENNAI.