



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-04-2025

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CORAM

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

WP No. 13318 of 2025

1. N.Murali

S/o.Nagaraj Sastri, No.109, Vellalar
Street, Purasawalkam,
Chennai- 600 084.

Petitioner(s)

Vs

1. The Secretary to Government
Housing and Urban Development
Department, Secretariat, Chennai- 9.

2.The Member Secretary
Chennai Metropolitan Development
Authority (Tower - II) No.1, Gandhi
Irwin Road, Egmore, Chennai-8.

3.The Commissioner
Corporation of Chennai, Ripon
Building, Chennai-3.

4.The Executive Engineer
(Enforcement Region Central) No.1
Lake Area, 4th Cross Street,
Nungambakkam, Chennai.



5.The Assistant Executive Engineer
Unit 26, No.1 Lake Area, 4th Cross
Street, Nungambakkam, Chennai.

6.The Junior Engineer
Division- 117, No.1 Lake Area,
4th Cross Street, Nungambakkam,
Chennai.

7.A.Marimuthu
No.56, 56-A, Hotel Maaris Grand,
Thirumalai Pillai Street, T.Nagar,
Chennai-017.

Respondent(s)

PRAYER

Directing the respondents 2 to 6 to implement the order of the 1st respondent dated 19.10.2016 passed in G.O. (3D) No.175 and take further enforcement action in pursuance to the same as per the observations made in W.P. No.12812 of 2017 dated 05.07.2017 within the time frame fixed by this Hon'ble Court.

For Petitioner(s): Mr.R.Prabakar

For Respondent(s): Mrs.E.Ranganayaki,
Additional Government Pleader
For R1

Mr.Akhil Akbar Ali,
Standing Counsel for CMDA
for R2



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Mr. D.B.R.Prabhu,
Standing Counsel for GCC
For RR3 to 6

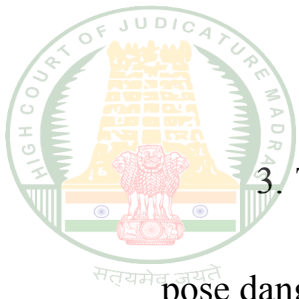
Mr.Avinash Wadhwani For R7

ORDER

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

The writ of mandamus has been instituted to direct the respondents 2 to 6 to implement the orders of the Government, dated 19.10.2016 passed in G.O.(3D) No.175 and take further enforcement action in pursuance to the same as per the observations made in Order dated 05.07.2017 in W.P.No.12812 of 2017.

2. The writ petitioner states that the 7th respondent has constructed hotel in unauthorized manner, in the name and style of Hotel Maaris Grand, located at Door Nos.56, 56-A and Survey No.81, Block No.108-B, T.S.No.6869/1, Thirumalai Pillai Street, T-Nagar, Chennai. The petitioner states that immediately he filed a writ petition to demolish the unauthorized construction made, since it is causing nuisance to the public and the people residing in that locality.



3. T-Nagar is a busy city area and such unauthorized construction would pose danger to the public. The Chennai Corporation initiated enforcement action under the provisions of the Tamil Nadu Town and Country Planning Act.

4. The 7th respondent Mr.A.Marimuthu filed W.P.No.12812 of 2017 and the Division Bench of this Court elaborately considered the issues on merits and passed final orders on 05.07.2017. The allegations and counter allegations regarding unauthorized constructions are elaborately considered by the Division Bench in the above judgement. Therefore, re-adjudication of the very same merits may not be required. But it is relevant to consider that the Division Bench made certain strong observations against the 7th respondent herein and further issued directions. The relevant paragraphs are extracted hereunder:

*“20.The facts projected by the official respondents in their respective counter affidavits reveal a very sorry state of affairs and on account of inaction on the part of the officials of CMDA and as observed in the decision reported in **2014 (2) MLJ 551** [cited supra], the petitioner with impunity and no fear, proceeded with the construction without any authorisation and completed it and also using it for commercial purpose in the form of hotel and only on the representations received from an Advocate and the local residents, the 2nd respondent/CMDA has*



woken up from deep slumber and started initiating action.

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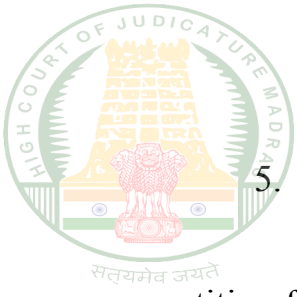
“21.Though an attempt was made by the learned counsel for the petitioner by submitting that since the property has been subjected to statutory levies, the deviations if any, has been condoned, in the considered opinion of the Court, lacks merit and substance for the reason that mere payment of statutory levies will not vest the petitioner any right to claim unauthorized construction put up by him, to be given ratification or sanctity. Admittedly, the regularization application submitted by the Developer, viz., M/s. Bommidala Realty Limited, has been rejected.

22. The learned counsel for the petitioner also made an attempt by submitting that in the light of the regularization scheme issued by the 1st respondent in G.O.Ms.Nos.110 and 111 dated 22.06.2017, he may be permitted to work out his remedy. However, the petitioner failed to produce any material before this Court as to the date of completion of the construction and the cut-off date for regularization prescribed as per the said Government Orders is 'on or before 01.07.2007'.

23.The conduct of the petitioner would also disclose that he has no regard for the Rules and Regulations and in utter violation of the relevant norms and regulation, has finished the construction and started using it as a commercial purpose and now, it is under lock and seal.

24.This Court, after careful scrutiny and analysis of the entire materials is of the view and opinion that there is no merit in this writ petition and deserves dismissal.

25.Accordingly, the writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are also dismissed.”



5. Though the Division Bench of this Court has dismissed the writ petition filed by the 7th respondent on 05.07.2017, the official respondents have not concluded the enforcement actions. The 7th respondent with a view to prolong and protract the issue, submitted an application to regularize the unauthorized constructions. Since keeping the application pending, the 7th respondent is prolonging the enforcement actions already initiated. Even prior to the filing of the writ petition by the 7th respondent, the Government rejected the revision petition filed by the 7th respondent under Section 80-A of the Tamil Nadu Town and Country Planning Act. Pertinently, the Government also elaborately adjudicated the issues by affording opportunity to the parties and rejected the revision petition.

6. The enforcement actions are pending right from the year 2016 onwards. In the year 2017, the Division Bench passed a detailed judgement, dismissing the writ petition filed by the 7th respondent. The 7th respondent filed an application seeking regularization of unauthorized construction under



Section 113-C of the Tamil Nadu Town and Country Planning Act. The said application was also rejected by the Chennai Metropolitan Development Authority on 08.04.2022 which was communicated to the writ petitioner, vide letter dated 21.03.2025. Therefore, the 7th respondent has exhausted all the remedies available under the statutes and Rules in force.

7. In view of the fact that the issues on merits were already adjudicated by the Government in detail and thereafter by the Division Bench of this Court in W.P.No.12812 of 2017 and final order was passed on 05.07.2017 and thereafter, the CMDA also rejected the regularization application on 08.04.2022, no further adjudication on merits are required since, the petitioner seeks only the execution of the orders passed by the Government and the Division Bench of this Court.

8. In view of the facts and circumstances, the 2nd respondent is directed to implement the Government Order and the orders of the Division Bench of this Court passed in W.P.No.12812 of 2017, dated 05.08.2017 and demolish the



unauthorized constructions and restore the building as per the building plan

permission. The said exercise is directed to be completed within a period of

eight (8) weeks from the date of receipt of a copy of this order and the 2nd

respondent is at liberty to seek police assistance, if require for execution of the

enforcement actions.

9. With these directions, the writ petition stands allowed. There shall be no order as to costs.

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

29-04-2025

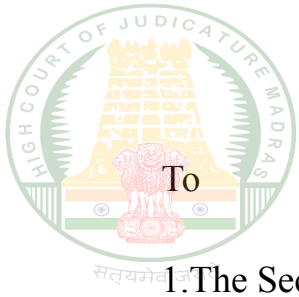
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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



To

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