



W.A.No.1672 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2025

CORAM

THE HONOURABLE MR. JUSTICE **S.M.SUBRAMANIAM**
AND
THE HONOURABLE MR. JUSTICE **MOHAMMED SHAFFIQ**

W.A.No.1672 of 2022

N.K.M.V.C.P. Rao

... Appellant

Vs.

- 1.P.Krishnan
- 2.A.Manickam
- 3.Janaki Arunkumar
- 4.R.Subash
- 5.A.Krishna Dev
- 6.V.Mini
- 7.R.Srinivasan
- 8.S.L.Padmavathy
- 9.Chadalawada Charulatha
- 10.D.Sreedharan
- 11.R.Govindan
- 12.P.Nilakantan (died)
- 13.The Chennai Metropolitan Development
Authority (CMDA) rep. By its
Member Secretary,
No.1, Gandhi Irwin Road,
Egmore, Chennai – 600 008.
- 14.The Tamil Nadu Housing Board
rep. By its Managing Director
Now at CMDA Complex,
E & C Market Road,
Koyambedu, Chennai – 600 107.
Old: Anna Salai, Nandanam,
Chennai – 600 035.



W.A.No.1672 of 2022

15.The Executive Engineer & Administrative
Officer, TNHB Anna Nagar Division,
Thirumangalam Shopping Complex,
Thirumangalam, Chennai – 600 101.

16.Colonel K.Malaiappan (Retd.)

17.KGEYES Residency Private Limited,
No.10, 2nd Cross Street,
R.A.Puram, Chennai – 600 028
rep. By its Managing Director

18.Lt. Colonel S.K.Robertson (Retd.)

19.Vasanthi Selvakumar

20.The Managing Director,
Chennai Metropolitan Water Supply &
Sewerage Board
Now at: No.75, Santhome High Road,
M.R.C. Nagar, R.A. Puram,
Chennai – 600 028.
Old: No.1, Pumping Station Road,
Chintadripet, Chennai – 2.

21.K.Banumathy

22.N.Ravishankar

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

... Respondents

(R21 and R22 brought on record as LRs
of the deceased R12 vide order dated
05.08.2024 made in C.M.P. No.18894 of
2022 in W.A.No.1672 of 2022)

(R23 suo motu impleaded vide order
dated 17.10.2024 made in
W.A.No.1672 of 2022)



W.A.No.1672 of 2022

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 26.04.2022 made in W.P. No.28682 of 2018.

For Appellant : Mr.N.K.M.V.C.P.Rao,
Party – in – Person

For Respondents : Ms.Rekha S
for Mr.Rahul Balaji
for R1, R2, R4 to R11, R21 and R22
Ms.P.Veena Suresh for R13
Mr.D.Veerasekaran for R14 and R15
Mr.Nithyaesh Natraj for R17
Mr.Krishna Ravindran for R20
R12 – died (steps taken)
No appearance for R3, R16, R18
and R19
Mr.D.B.R.Prabhu for R23

JUDGMENT

(Judgment of the Court was delivered by *S.M.SUBRAMANIAM, J.*)

Under assail is the writ order dated 26.04.2022 passed in W.P.No.28682 of 2018.

2. The fifth respondent in the writ petition is the appellant before this Court. The appellant is owner of H.I.G. type flat having No.384/4 at Green Gardens, L Block, Anna Nagar East, Chennai - 102. The grievance of the appellant is that, 17th respondent in the present writ appeal undertook to re-develop two blocks abutting the main road, which created an issue amongst all the undivided shareholders residing in other blocks.



W.A.No.1672 of 2022

This was challenged on the ground that no sanction or consent had been obtained from all the undivided shareholders holding common rights in respect of the entire extent of land measuring 59.65 grounds.

3. The short facts would show that 54 apartments were constructed in 'A' type H.I.G. and another 54 apartments were constructed in 'B' type H.I.G. in a land measuring total extent of 59.65 grounds. A perusal of the documents would reveal that the undivided shares have been allotted to all the respective flat owners in respect of the entire extent of land measuring 59.65 grounds. Totally 18 blocks were constructed, out of which, 9 blocks are 'A' type and 9 blocks are 'B' type and in each block, six flats are constructed. Now, 17th respondent agreed with the land owners of two blocks bearing Nos.382 and 383 for redevelopment without obtaining consent from all other apartment owners in respect of the undivided shares to the total extent of 59.65 grounds.

4. Learned counsel for 17th respondent would submit that the builder has decided to demolish the constructed portion of the building and only after resolving the dispute amongst the co-owners, they will enter into an agreement for redevelopment. In this regard, the 17th respondent filed a sworn affidavit stating as follows:



W.A.No.1672 of 2022

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'I, S.Venkatasubramanian, son of Srinivasan, aged about 57 years, having office at No.10, Second Cross Street, R.A.Puram, Chennai 600 028, do hereby solemnly affirm and sincerely state as follows:

1. I state that I am the Managing Director of the 17th Respondent herein and I am well acquainted with the facts and circumstances of the present case and I am competent to swear this present affidavit.

2. I state that pursuant to Order dated 17.10.2024 passed by this Hon'ble Court in this present Writ Appeal, application was made to the Corporation of Chennai for demolition of the existing structure at Block No.12, Plot No.382 and 383, T.S.No.2 part and 37 part, New Avadi Road, 1st Avenue, Anna Nagar East, Chennai 600 102 and the Corporation has approved the demolition under Demolition Permission dated 18.06.2025, subject to the various condition to be fulfilled.

3. I state that the 17th Respondent was the developer of the project and undertakes to demolish the entire structure standing in Plot No.382 and 383, within a period of one month from this date.



W.A.No.1672 of 2022

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It is therefore respectfully prayed that this Hon'ble Court may be please to take the present affidavit on record and pass suitable order in the Writ Appeal in the light of rendering justice.'

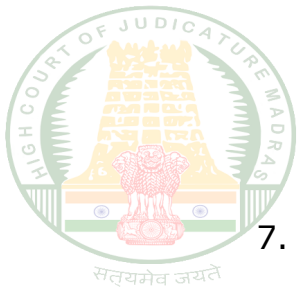
5. In view of the sworn affidavit filed by the 17th respondent, the existing construction put up by the 17th respondent is directed to be demolished.

6. In respect of redevelopment, Section 13 of the Tamil Nadu Apartment Ownership Act, 2022 (Tamil Nadu Act 44 of 2022) reads as follows:

'13.Re-development.- Notwithstanding anything contained in this Act, re-development of a project may be carried out on such terms and conditions, as may be prescribed,-

(a) with the consent of not less than two-thirds of the apartment owners of the project; or

(b) if the appropriate authority has certified that the building is in ruinous condition, or in a such a state that it may endanger the lives of the occupants or any other person.'



W.A.No.1672 of 2022

7. In the present case, the documents would show that every flat owner possesses undivided share in respect of the total extent of land measuring 59.65 grounds. That being so, as required under the provisions of Section 13 of Tamil Nadu Apartment Ownership Act, 2022 (Tamil Nadu Act 44 of 2022) read with Rule 9 of Tamil Nadu Apartment Ownership Rules, 2024, consent from all the flat owners holding undivided share would be mandatory for the purpose of redevelopment. Proviso to Section 3(2) of Tamil Nadu Apartment Ownership Act, 2022 (Tamil Nadu Act 44 of 2022) indicates that no apartment or its undivided interest in the common areas and facilities shall be partitioned or sub-divided for any purpose whatsoever. Therefore, partial redevelopment of undivided land or common area in the said land is impermissible under law. Redevelopment must be undertaken with the consent of all the flat owners holding undivided share in the entire extent of land.

8. In view of the facts and circumstances, this Court is of the considered view that a direction issued by the writ Court is not in consonance with the provisions of law and the rights conferred to the individual flat owners in respect of the entire extent of land.

9. Accordingly, the 17th respondent is directed to demolish the existing building as per his own undertaking within a period of one month



W.A.No.1672 of 2022

from today and for the purpose of redevelopment, flat owners are at liberty to arrive at a consensus and proceed with the project, scrupulously following the provisions of Tamil Nadu Apartment Ownership Act, 2022 (Tamil Nadu Act 44 of 2022) and Tamil Nadu Apartment Ownership Rules, 2024 and by obtaining necessary permission from the competent authorities in the manner known to law.

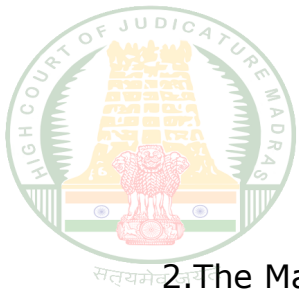
10. In view of the above, the order dated 26.04.2022 passed by the writ Court in W.P. No.28682 of 2018 stands set aside and the writ appeal stands allowed. There shall be no order as to costs.

[S.M.S., J.] [M.S.Q., J.]
13.10.2025

Index:Yes
Neutral Citation:Yes/No
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To

- 1.The Member Secretary,
The Chennai Metropolitan Development
Authority (CMDA),
No.1, Gandhi Irwin Road,
Egmore, Chennai – 600 008.



W.A.No.1672 of 2022

- 2.The Managing Director,
Tamil Nadu Housing Board,
Now at CMDA Complex,
E & C Market Road,
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Officer, TNHB Anna Nagar Division,
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W.A.No.1672 of 2022

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MOHAMMED SHAFFIQ, J.**

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W.A.No.1672 of 2022

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