



W.P.No.17321 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 10.06.2025

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

and

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.17321 of 2020

&

W.M.P Nos.21428 of 2020 and 28923 of 2022

1.J.Bemina

2. J.John Milton

... Petitioners

Vs.

1. Directorate of Town and Country Planing

Rep. By its Director
Planning Head Office
No.807, Anna Salai
Chennai – 600 002

2. Mamallapuram Local Planning Authority

Rep. By its Member Secretary cum Deputy
Director of Town and Country Planning
Five Rathams Shopping Complex
Venpurasam Salai, Mamallapuram – 603 194



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3. Mamallapuram Town Panchayat
Rep. By its Executive Officer
No.1, East Raja Street
Mamallapuram

4. True Value Homes (TVH) India Pvt. Ltd.,
Mr.N.Ravichandran
Chairman
MRC Nagar, Raja Annamalaipuram
Chennai – 600 028

5. TVH TAUS Apartment Owners Association
(earlier named as TVH TAUS Flat Owners
Welfare Association)
Rep. By its President Mr.M.Sakthivel

TVH TAUS Apartment Complex
Natham Road, Egattur
Navalur (Near Toll Plaza)
OMR, Chennai – 603 103

6. M/s.TVH Infrastructure Chennai Private Limited
Rep. By its Director
No.21, C.V.Raman Road
Alwarpet, Chennai – 600 018

7. M/s.Kumeran Housing Private Limited
Rep. By its Director
No.1, V.O.C, 2nd Main Road
Kodambakkam
Chennai – 600 024

... Respondents

Writ Petition filed under Article 226 of The Constitution of India
praying to issue a Writ of Mandamus directing the 2nd respondent to take
appropriate action to remove the unauthorized structure which is being



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constructed contrary to the approved plan in the “Court Yard” of TVH-TAUS situated in Natham Road, Egattur, Navalur (Near Toll Plaza) OMR, Chennai – 600 103, pursuant to the representation of the petitioner dated 18.09.2019.

For Petitioners : Mr.K.Ramanamoorthy
for 1st Petitioner
No appearance for 2nd petitioner

For Respondents : Mr.M.S.Arasa Kumar
Government Advocate for R1

Mr.K.Arun Babu for R2 and R3

Mr.Abishek Jenasenan for R4 and R6

Mr.R.Raveendran for R5

R7-Served (No appearance)

ORDER

[Order of the Court was made by **HEMANT CHANDANGOUDAR, J.,**]

1. The petitioners state that they are the rightful owners of individual plots situated within a residential complex developed and constructed by the fourth respondent, herein referred to as the “Developer.” The fifth respondent is a Registered Association constituted under the provisions of the Tamil Nadu Societies Registration Act, 1975 (Act 27 of 1975). The said



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Association was established with the primary objective of managing and maintaining the common areas within the residential complex, as well as collecting maintenance charges from the flat owners for the upkeep and related services.

2. The grievance of the petitioners is that the fourth respondent/Developer, allegedly at the behest of the fifth respondent/Association, is attempting to carry out illegal and unauthorized construction on portions of the property designated as common areas. In this regard, the petitioners submitted a representation to the second respondent, requesting appropriate action to restrain the Developer from proceeding with the unauthorized construction on the common property. However, the inaction on the part of the second respondent in considering or acting upon the said representation has compelled the petitioners to approach this Hon'ble Court by filing the present writ petition, seeking necessary relief.

3. Heard Mr.K.Ramanamoorthy, learned counsel for first petitioner, Mr.M.S.Arasa Kumar, learned Government Advocate for Respondent No.1, Mr.K.Arun Babu, learned counsel for Respondent Nos. 2 and 3, Mr.Abishek Jenasenan, learned counsel for Respondent Nos.4 and 6 and



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Mr.R.Raveendran, learned counsel Respondent No.5. There is no representation for the second petitioner.

4. The learned counsel for the writ petitioners submits that the construction being carried out on the common area is *ex facie* illegal. It is asserted that the impugned construction is in clear violation of the sanctioned plan approved by the competent planning authority and is also contrary to the express provisions of the Tamil Nadu Combined Development and Building Rules, 2019. The petitioners further contend that no construction can be permitted on common areas, irrespective of any alleged majority consent, as such areas are meant for the collective use and enjoyment of all flat owners and cannot be altered or encroached upon in a manner detrimental to their rights.

5. In rebuttal, the learned counsel appearing for Respondents Nos. 4 and 6 contends that the construction sought to be carried out on the common area is being undertaken with the consent of the majority of the flat owners. It is further submitted that the said construction is neither in contravention of the sanctioned building plan nor does it violate any of the provisions contained in the Tamil Nadu Combined Development and Building Rules,



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2019. According to the respondents, the construction is lawful, duly supported by majority approval, and compliant with all statutory and regulatory norms governing development activities.

6. This Court is of the considered view that the question as to whether the construction allegedly carried out / put up in the common area is in consonance with the sanctioned building plan and in compliance with the Tamil Nadu Combined Development and Building Rules, 2019, is a matter that falls within the domain of the first respondent, who is the competent authority to examine such issues under the applicable statutory framework.

7. Without expressing any opinion on the merits of the rival contentions advanced by the learned counsel for the respective parties, this Court deems it appropriate to issue the following directions:

i) The first respondent is hereby directed to consider and dispose of the representation dated 17.09.2019 submitted by the writ petitioners, strictly in accordance with law, more particularly bearing in mind the provisions of the Tamil Nadu Combined Development and Building Rules, 2019, and any other relevant statutory enactments or regulations applicable to the subject matter;

ii) The first respondent shall ensure that all necessary stakeholders, including the writ petitioners, the fourth and sixth respondents, and the fifth



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respondent/Association, are duly notified and afforded a reasonable opportunity to submit their responses and supporting documents, if any, before arriving at a final decision;

iii) The entire exercise shall be concluded within a period of sixteen (16) weeks from the date of receipt of a copy of this order, i.e., on or before 13.09.2025.



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8. With the above observations and directions, the captioned writ petition and the connected miscellaneous petitions stand disposed of. There shall be no order as to costs.

(M.S.,J.) (H.C.,J.)

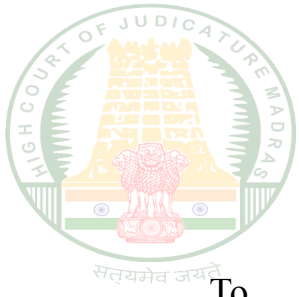
10.06.2025

Index : Yes / No

Neutral Citation : Yes / No

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P.S: Though the captioned Writ Petition is disposed of, list the matter under the caption 'FOR REPORTING COMPLIANCE' on 07.10.2025.



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To
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