



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-04-2025

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THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

WP No. 19294 of 2024

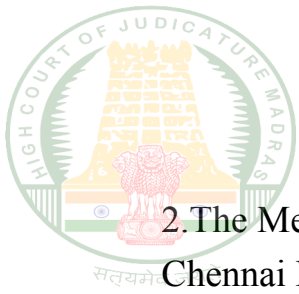
1. M/s.Ramaniyam Real Estates (P) Ltd,
(formerly Known As M/s. Amrita Lakshmi Realtors
(P) Ltd,
No. 14/67, 3rd Main Road,
Gandhi Nagar, Adyar, Chennai -600 020,
Rep. By Its Managing Director,
Mr. V.Jaggannathan.

2.B.Uma,
Flat No.A-402, "Ramaniyam Samarpann",
Plot No. 233, 20th East Street And Plot No. 231, 21st
East Street,
Thiruvanmiyur, Chennai -600 041,
Rep. By Her Power Agent,
M/s. Ramaniyam Real Estates(P) Ltd,
No. 14/67, 3rd Main Road,
Gandhi Nagar, Adyar, Chennai -600 020.

Petitioner(s)

Vs

1. The Secretary To Government
Housing And Urban Development Department,
Fort St. George, Chennai -600 009.



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2. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natrajan Building,
No. 1, Gandhi Irwin Road,
Egmore, Chennai -600 008.

3. G. Sivasubramanian,
B.405, Samarpann Apartments, 20th And 21st
East Street,
Kamaraj Nagar, Thiruvanmiyur,
Chennai 600 041.
(R3-impleaded as Per Order Dated 27.03.2025
In WMP.9478/2025 In WP.19294/2024)

Respondent(s)

PRAYER

Call for the records relating to the de-occupation notice of the 2nd respondent vide their letter No. ES2/6126/2008, dated 18.04.2024, received on 24.04.2024 and to quash the same and directing the respondents to receive and process the revised planning permission application of the petitioner company submitted under Fiel No. CMDA/PP/NHRB/S/ 0644/2023, dated 19.01.2024 filed after obtaining the High Court order in W.P.No. 25379 of 2022 on 21.09.2022, on flimsy grounds and directing the Respondents to process the application.

For Petitioner(s): Mr.S.Sundaresan
For Respondent(s): Mr.G.Ameedius
Government Advocate for R1
Mr.R.Thamarai Selvan
Standing Counsel for CMDA for R2
Mr.V.Chandrasekaran for R3

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

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The de-occupation notice issued by the CDMA in Proceedings in Letter No.ES2/6126/2008, dated 18.04.2024 is sought to be assailed in the present Writ Petition and to grant revised plan approval.

2. On receipt of the complaints regarding unauthorised construction/deviation, the competent authorities of CMDA conducted an inspection and initiated action. Since unauthorized construction/deviation are identified, the de-occupation notice was issued to the Writ Petitioners. Instead of complying with the defects, the petitioners have chosen to file the present Writ Petition.

3. Learned counsel for the petitioners would submit that revised plan was submitted even before completion of additional construction. However, the said application was not considered by the CMDA. The additional construction were made within the permissible area. Therefore, the said application ought to have been considered by the CMDA.

4. Learned counsel appearing on behalf of the 3rd respondent/impleaded petitioner would submit that, as early as in the year 2015, a final order has been passed by this Court in W.P.No.11421 of 2014 stating that the petitioner must complete the building in consonance with the building plan



approval granted, failing which appropriate action should be taken by the CMDA. Despite the fact that this Court passed an order in the year 2015, the petitioners have committed violation/deviation by putting up unauthorized construction.

5. Learned Standing counsel appearing for CMDA relying on the counter would submit that portion of the building was construed unauthorisedly and on identification de-occupation notice was issued. Since the Writ Petition is pending, further enforcement action was stopped.

6. The counter filed by CMDA reveals that unauthorised construction cannot be regularised for the following reasons. Paragraph No.(36) reads as under,

“36. I further submit that revised planning permission application in SBC No.CMDA/PP/NHRB/S/0322/2024 dated. 08.05.2024 has been examined and the reason for the unauthorized construction cannot be regularized are as follows:-

i. The revised proposal consist of Stilt floor + 4 floors Residential building with 79 dwelling units has been constructed at the site as against 77 dwelling units covered in the approved plan is contravention to the planning permission accorded. The unauthorizedly constructed two dwelling units in the fourth floor requires consent from all the flat owners and the same was also not furnished.



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ii. *More number of Storage/Association Rooms (8 Nos.), watchman room and caretaker rooms has been unauthorizedly constructed in stilt floor parking area. It is not known whether the said rooms are handed over to association or not. Hence, clarification was not given.*

iii. As per the approved plan, the space earmarked for car parking have unauthorizedly converted into rooms in stilt floor. In the earlier plan submitted by the applicant dated 11.09.2023, the rooms in the stilt floor are earmarked for Association. In this connection, the applicant was requested to give clarification whether the said rooms are handed over to association or not when the Planning Permission Application was returned unapproved on 19.01.2024. In the revised plan submitted by the applicant, rooms in stilt floor are earmarked as storage room instead of association rooms. The conversion of parking area in to storage rooms requires consent from all the flat owners and the same was also not furnished.

iv. Some of the flat owners have executed Registered Power of attorney and unregistered Power of attorney in favour of applicants to apply for revised proposal with CMDA/GCC, to apply for building plan approval, to remit and withdraw monies, to obtain Electricity connection, Metro water and Patta etc., but specific Power of attorney has not given for addition construction of two flats



*at 4th floor and conversion of parking space in
to Storage/Association rooms.*

v.As per the documents furnished by the applicant, Total nos of flats was 79. The unregistered GPA executed by flat owners in favour of applicant was 54 nos, Registered GPA executed by flat owners in favour of applicant was 15 nos and the remaining flat owners have not executed the GPA in favour of applicant. CMDA issued planning permission in favour M/s. Amirthalakshmi Realtors (P) Ltd and others and the applicant M/s. Amirthalakshmi Realtors (P) Ltd have sold the flats to individuals and therefore any changes in the approved plan require consent from the all the flat owners. Unregistered GPA document executed by flat owners in favour of applicant was not acceptable as ownership evidence to apply for Planning Permission Application. Hence, Registered Ownership document for Right over the property to apply for PPA to be furnished and Registered GPA executed by all flat owners in favour of M.Chandru (GPA) and others to be furnished. Otherwise, all the flat owners have to combinedly submit the planning permission application for the revised proposal (Revised plan for deviation to the earlier approved plan and addition construction of two flats at 4th floor and conversion of parking space in to Storage rooms).

vi. Thiru M.Chandru (GPA) &

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M/s.Ramaniyam Real Estates Pvt Ltd has sold the flats to individuals and the parking was allotted to concerned flat owners. In the revised plan, the space earmarked for parking was converted area in to storage rooms, whether the applicant has obtained consent from all flat owners for the conversion parking in to rooms was not known. Based on the consent received from all the land owners for the unauthorized construction of rooms at stilt floor which was earmarked for parking and additional construction of two dwelling units, the revised Planning Permission will be disposed of.”

7. The CMDA has further stated that without obtaining approval for the unauthorized construction of storage/association rooms at stilt floor, which was earmarked for parking and additional construction of two dwelling units, the petitioner filed writ petition in WP.No.8809 and 8813 of 2010 and obtained the service connection from service agency viz., the Tamil Nadu Electricity Board and Chennai Metropolitan Water Supply and Sewerage Board as per the Court order dated 08.06.2010 and also without remitting the balance I & A charges of Rs.44,77,000/- and Completion Certificate was also not obtained. However, the petitioner has completed the construction and sold the flats.

8. However, learned counsel for the petitioners stated that the said amount has been paid by the petitioner.



9. CMDA found several violations and unauthorized construction, which has been set out in the counter affidavit. The petitioner instead of restoring the building in accordance with building plan permission by demolishing the unauthorized construction, is litigating the matter only with an idea to protract and prolong. Such an endeavor cannot be entertained by this Court.

10. In view of the facts and circumstances, the 2nd respondent/CMDA is directed to continue the enforcement action and ensure that unauthorized construction are demolished and the building is restored as per the building plan permission granted by the competent authority. Such exercise is directed to be completed within a period of 8 weeks from the date of receipt of a copy of this order.

11. Accordingly, the Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petitions, if any, are closed.

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

23-04-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

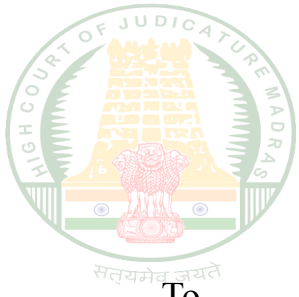
Neutral Citation: Yes/No



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To
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**S.M.SUBRAMANIAM
J.
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K.RAJASEKAR J.**

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