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W.P.Nos.22451 & 21992 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2025

CORAM :

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

W.P.Nos.22451 & 21992 of 2024
and WMP Nos.24451, 24454 of 2024

W.P.No.22451 of 2024 :

- 1.A.Jayapandian
- 2.J.Esther
- 3.V.Christy
- 4.A.John Britto

Petitioners 1 to 4 represented by
their Power Agent, A.Veerapandian

.... Petitioners in W.P.No.22451/2024

Vs

- 1.The State of Tamil Nadu
Additional Secretary (Technical)
Tamil Nadu Housing & Urban
Development Department
Secretariat, Fort St.George
Chennai - 600 003.

- 2.The District Revenue Officer /
Assistant Commissioner
Zonal Office - 10
Greater Chennai Corporation
Kodambakkam, Chennai - 600 024.



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3.The Executive Engineer
Greater Chennai Corporation
Zone-8, Division 125
Masilamani Street
T.Nagar, Chennai - 600 017.

4.The Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road
Egmore, Chennai - 600 008.

5.A.Amirtharaj Respondents

Prayer in W.P.No.22451 of 2024: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari calling for the records related to the order passed by the first respondent in Letter No.6997027/UD 6(3)/2024-2 dated 03.06.2024, quash the same and pass such further or other orders this Court deems it fit in the facts and circumstances of the case.

W.P.No.21992 of 2024 :

A.Amirtha Raj Petitioner in W.P.No.21992/2024

Vs

1.The Additional Secretary (Technical)
Tamil Nadu Housing & Urban
Development Department
Secretariat, Fort St.George
Chennai - 600 003.



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2.The Zonal Officer

Zonal No.10, Greater Chennai Corporation
117, Jawaharlal Nehru Road
NGO Colony, Kodambakkam
Chennai - 600 026.

3.The Assistant Executive Engineer

Unit-31, Greater Chennai Corporation
117, Jawaharlal Nehru Road
NGO Colony, Kodambakkam
Chennai - 600 026.

4.The Assistant Engineer

Division-133, Unit-13, Zone-10
Greater Chennai Corporation
117, Jawaharlal Nehru Road
NGO Colony, Kodambakkam
Chennai - 600 026.

.... Respondents 1 to 4

5.A.Jayapandian

6.J.Esther

7.V.Christy

8.A.John Britto

.... Respondents 5 to 8

[Respondents 5 to 8 are impleaded vide order
dated 05.02.2025 in WMP.No.25027 of 2024
in W.P.No.21992 of 2024]

Prayer in W.P.No.22451 of 2024: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari calling for the records related to the order passed by the first respondent in Letter No.6997027/UD 6(3)/2024-2 dated 03.06.2024, quash the same and pass such further or other orders this Court deems it fit in the facts and circumstances of the case.



W.P.Nos.22451 & 21992 of 2024

Prayer in W.P.No.21992 of 2024: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus directing the respondents 2 to 4 to de-seal petitioner property forthwith situated at Door No.53, Andiappa Naicken Street, West Mambalam, Chennai -600 033 in pursuance to order passed by the first respondent vide his Letter No.6997027/UD 6(3) 2024-2 dated 03.06.2024.

In W.P.No.22451 of 2024 :

For Petitioners	: Mr.Niranjana Rajagopalan for M/s.G.R.Associates
For Respondents	: Mr.T.Chandrasekaran Special Government Pleader for R1 Mr.A.Arun Babu Standing Counsel for GCC [R2 & R3] Mr.R.Thamaraiselvan Standing Counsel for CMDA [R4] Mrs.Hema Sampath, Senior Counsel for Mr.S.Packiaraj for R5

In W.P.No.21992 of 2024 :

For Petitioner	: Mr.S.Ramachandran
For Respondents	: Mr.T.Chandrasekaran Special Government Pleader for R1 Mr.A.Arun Babu Standing Counsel for GCC [R2 to R4] Mr.Niranjana Rajagopalan for M/s.G.R.Associates [R5 to R8]



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COMMON ORDER

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

Though the challenge in both the writ petitions relate to the Government letter No.6997027/UD 6(3) 2024-2 dated 03.06.2024, W.P.No.22451 of 2024 was filed for a certiorari to quash the said proceedings, disposing the revision petition filed by the fifth respondent in his favour, whereas, W.P.No.21992 of 2024 was filed by the said fifth respondent in W.P. No.22451 seeking a mandamus to the respondents 2 to 4 in W.P.No.21992 of 2024 to de-seal his property in question. Parties herein would be referred to by their rank as in W.P.No.22451 of 2024.

2. It is admitted by the writ petitioners and fifth respondent that the title and identification of the properties are in dispute and the same is pending in the civil suits. The suit in C.S.No.323 of 2001 was filed by the petitioners herein against fifth respondent seeking declaration of title and delivery of possession. The suit in O.S.No.12804 of 2010 was filed by the fifth respondent before the IV Additional Judge, City City Court, Chennai against the petitioners herein seeking similar relief.



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3. Mrs.Hema Sampath, learned senior counsel appearing for the fifth respondent would submit that the civil suit filed in O.S.No.12084 of 2010 has been decreed in favour of the fifth respondent on 26.08.2021.

4. Mr.Niranjan Rajagopalan, learned counsel appearing for the writ petitioners would submit that in the civil suit in C.S.No.323 of 2001 filed by the petitioners, an interim order of status quo is in force and the main suit is pending.

5. The case of the petitioners in W.P.No.22451 of 2024 is that the fifth respondent has put up an unauthorised construction in a portion of the subject property and based on the objections raised by them, lock and seal and demolition notice was issued on 04.12.2021, pursuant to which, revision petitions were filed by the fifth respondent, and the first respondent vide the impugned order had disposed of the said revision petitions.

6. The unauthorised construction is the complaint made against the fifth respondent. It is not in dispute that prior to any construction work, a person should secure a building plan permission as required under law.



WEB COPY 7. The learned Special Government Pleader and the learned Standing Counsel for Chennai Corporation would submit that no building permission has been obtained for construction of a building by the fifth respondent.

8. It is needless to state that unauthorised constructions cannot be allowed to exist and has to be demolished. The constructions are to be made strictly in accordance with building plan permission granted by the competent authority of the Corporation or the local body, as the case may be. However, in the present case, if the impugned Government letter is implemented, it will cause prejudice to either of the parties, since the title dispute and identification of the property are existing. Even as per the Act and Rules, a person submitting an application seeking to secure a planning permission or building permit from the Corporation, should have undisputed ownership or right over the land. In the event of dispute, Corporation officials have to conduct an enquiry, ascertain the correctness of title and thereafter, consider the application seeking building plan approval. In the present case, title disputes exist between the parties and civil suits are pending. Therefore, the writ petitioners and the fifth respondent are at liberty to resolve the dispute regarding the title and identification of the property before the civil Court of



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law and after reaching finality, either of the parties are at liberty to approach the Corporation for submission of application seeking building plan approval or otherwise. Till such time the dispute regarding title and identification of the property is resolved, no building plan approval can be granted to either of the parties to the writ proceedings.

9. With the above observation, both the writ petitions stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[S.M.S, J.]

[K.R.S, J.]

05.02.2025

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation : Yes / No

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To:

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State of Tamil Nadu
Tamil Nadu Housing & Urban Development Department
Secretariat, Fort St.George, Chennai - 600 003.
- 2.The District Revenue Officer /Assistant Commissioner
Zonal Office - 10, Greater Chennai Corporation
Kodambakkam, Chennai - 600 024.
- 3.The Executive Engineer
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S.M.SUBRAMANIAM, J.
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