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WP No. 24387 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-04-2025

CORAM

THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

WP No. 24387 of 2024

AND

WMP NO. 26651 of 2024

Sri Zalawad Jain Welfare Trust,
Rep. By Its Secretary Mr. Bakulesh R
Shah, Having Kalyana Mandapan In
The Name Of Sir Mathikundanben
Ratitual Shah Kapadia Bhavan Lakthar
Wala, No.15/16, Vepary Church Road,
Vepery, Chennai-600 007.

Petitioner(s)

Vs

1.The Principal Secretary
Housing And Urban Development,
Secretariat, St. George Fort,
Chennai-600001

2.The Member Secretary
Chennai Metropolitan Development
Authority(CMDA) No.1,
Gandhi Irwin Road, Egmore,



Chennai-600008.

3.The Corporation Of Chennai

Rep. By Its Commissioner,

Ripon Buildings,

Chennai-600003.

Respondent(s)

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PRAYER

Calling for all the records in connection to impugned order issued by the respondent vide the letter dated 30.01.2024 Ref. No. Reg.II/B5/50299/2000 and RA/B5/170/2018 (Received by the petitioner on 15.05.2024) and quash the same and thereby allow the regularization application submitted by the petitioner vide the Regularisation Planning permission application in Reg.No.10398 dated 31.10.2000.

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For Petitioner(s): Mr.Srerenik.S.Jain

For Respondent(s): Mr.E.R.Anganayaki AGP For R1
Mr.R.Thamaraiselvan SS
For (CMDA) For R2
Mr.D.B.R.Prabhu SC For R3

ORDER

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

The rejection of application seeking regularization of unauthorized constructions in proceedings dated 08.05.2024 and 30.01.2024 is under



challenge in the present writ proceedings.

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2. Pursuant to the complaint, the respondents have conducted a survey and identified the unauthorized constructions. The writ petitioner filed an application seeking regularization of unauthorized constructions of commercial building (Marriage Hall) of BF+GF+1F at Door Nos.15 and 16, Church Road, Vepery, Chennai – 600 007. The Chennai Metropolitan Development Authority (CMDA) has rejected the application on the ground that the petitioner has not submitted the relevant documents and particulars for considering the application.

3. The learned counsel for the petitioner would submit that all the required documents were submitted before the CMDA. Therefore, the reason stated in the order impugned is incorrect.

4. May that as it be, regularization of unauthorized constructions cannot be done in a routine manner by the CMDA. In the event of granting



regularization of unauthorized constructions, the very purpose and objective of the law would be violated, and therefore, regularization is an exception and cannot be granted in a routine manner.

5. The Hon'ble Supreme Court of India in the case of ***Rajendra Kumar Barjatya and Another vs. U.P.Avas Evam Vikas Parishad and Others [2024 INSC 990]***, held as follows:

“21. Therefore, in the larger public interest, we are inclined to issue the following directions, in addition to the directives issued by this Court in Re: Directions in the matter of demolition of structures (supra):

(i) While issuing the building planning permission, an undertaking be obtained from the builder/applicant, as the case may be, to the effect that possession of the building will be entrusted and/or handed over to the owners/beneficiaries only after obtaining completion/occupation certificate from the authorities concerned.

(ii) The builder/developer/owner shall cause to



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be displayed at the construction site, a copy of the approved plan during the entire period of construction and the authorities concerned shall inspect the premises periodically and maintain a record of such inspection in their official records.

(iii) Upon conducting personal inspection and being satisfied that the building is constructed in accordance with the building planning permission given and there is no deviation in such construction in any manner, the completion/occupation certificate in respect of residential / commercial building, be issued by the authority concerned to the parties concerned, without causing undue delay. If any deviation is noticed, action must be taken in accordance with the Act and the process of issuance of completion/occupation certificate should be deferred, unless and until the deviations pointed out are completely rectified.

(iv) All the necessary service connections, such as, Electricity, water supply, sewerage connection, etc., shall be given by the service provider / Board to the buildings only after the production of the



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department/local body for co-operation from another department to take action against any unauthorized construction, the latter shall render immediate assistance and co-operation and any delay or dereliction would be viewed seriously. The States/UT must also take disciplinary action against the erring officials once it is brought to their knowledge.

(ix) In the event of any application / appeal / revision being filed by the owner or builder against the non-issuance of completion certificate or for regularisation of unauthorised construction or rectification of deviation etc., the same shall be disposed of by the authority concerned, including the pending appeals / revisions, as expeditiously as possible, in any event not later than 90 days as statutorily provided.

(x) If the authorities strictly adhere to the earlier directions issued by this court and those being passed today, they would have deterrent effect and the quantum of litigation before the Tribunal / Courts relating to house / building constructions would come down drastically. Hence, necessary instructions



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should be issued by all the State/UT Governments in the form of Circular to all concerned with a warning that all directions must be scrupulously followed and failure to do so will be viewed seriously, with departmental action being initiated against the erring officials as per law.

(xi) Banks / financial institutions shall sanction loan against any building as a security only after verifying the completion/occupation certificate issued to a building on production of the same by the parties concerned.

(xii) The violation of any of the directions would lead to initiation of contempt proceedings in addition to the prosecution under the respective laws.”

6. Pertinently, the petitioner preferred an appeal before the Government and the Government considered and granted liberty to the petitioner to submit additional particulars, if any. However, the impugned order reveals that the petitioner has not produced any additional particulars for re-examination and the



unauthorized constructions now cannot be regularized in a routine manner, which would defeat the very purpose of building plan permission.

7. The practice of constructing unauthorized buildings and submitting application seeking regularization would create an anomalous situation wherein the very purpose of building plan permission will be defeated. In the present case, enforcement actions have been commenced. At that point of time, an application seeking regularization was instituted. However, regularization of unauthorized constructions was not granted by the CMDA. Despite the fact that the matter is pending for long time, the respondents are directed to continue the enforcement actions by following the procedures as contemplated and demolish the unauthorized portion of the building and restore the building as per the building plan permission within a period of three months from the date of receipt of a copy of this order.



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8. With these directions, the writ petition stands dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

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

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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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