



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-03-2025

CORAM

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

WP No. 1289 of 2025

A.R.Balakrishnan

Petitioner(s)

Vs

1.The Commissioner
Greater Chennai Corporation,
Chennai-600 003.

2.The Executive Engineer / Z-12,
Greater Chennai Corporation,
Alandur.

3.R.V.Arul

Respondent(s)

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PRAYER

Directing the respondents 1 and 2 in removing the illegal construction done by the 3rd respondent in the land to an extent of 0.22 cents, house site, comprised in S.No.243/5, in Adambakkam Village, Saidapet Taluk, is situated in Ward-f, Block 13, Surrender Nagar, 6th Street, Adambakkam, Chennai-600 088.



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For Petitioner(s): Mr.P.Raja

For Respondent(s): Ms.V.Pavithra For
M/s.S.Vanitha Joice Rani For R1
and R2
Mr.R.Thiagarajan
For Ms.G.Sumitra For R3

ORDER

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

The writ of mandamus has been instituted to direct the respondents 1 and 2 to remove the unauthorised construction carried out by the 3rd respondent on a 0.22 cents house site in S.No.243/5, Adambakkam Village, Saidapet Taluk, located at Ward-F, Block 13, Surender Nagar, 6th Street, Adambakkam, Chennai – 600 088.

2. A civil dispute between the writ petitioner and the 3rd respondent is pending before the Competent Civil Court of Law. The writ petition, in paragraph 17 of the affidavit, states that the present writ petition is only confined to the complaint made by the writ petition to the Corporation on



27.06.2023, regarding the unauthorised construction put up by the 3rd respondent in the subject property.

3. Regarding the civil dispute, it is for the parties to resolve the same in the manner known to law. As far as the unauthorised constructions are concerned, the Chennai Corporation has initiated action.

4. In the context of the pleading between the parties, this Court directed the Executive Engineer to file a status report. The Status report filed by the Executive Engineer, Greater Chennai Corporation, reveals the following facts:

“5. I respectfully submit that, based on the above complaint of the writ petitioner the Assistant Executive Engineer, Greater Chennai Corporation has inspected the said building and issued a Stop Work Notice and Calling for Approval plan under 56(1) and 57 read with section 85 of Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act, 35 of 1972 as amended by Act 61 of 2008) to the 3rd respondent on 31.07.2023.

6. I respectfully submit that on 23.09.2023 the



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Assistant Engineer. Greater Chennai Corporation has inspected the said subject building and found that the 3rd respondent has constructed a building measuring 1200 Square Feet of ground floor and first floor without obtaining any building approval from the Greater Chennai Corporation.

7. I respectfully submit that, the 3rd respondent didn't produce valid documents and not obtained any planning permission. Hence the Greater Chennai Corporation issued Lock and Seal notice under section 57 read with section 85 of Town and Country Planning Act 1971 as amended by Act 61 of 2008 requiring Locking and Sealing and Demolition of the construction put up unauthorized without planning permission required under section 49 of the said Act vide 163/01/2023 dated 20.11.2023 to the 3rd respondent herein.

8. I respectfully submit that, to implement the enforcement action against the 3rd respondent the Greater Chennai Corporation issued De-occupation notice and to lock and seal the premises under Section 56 and Sub Section 2(A) & 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act 1971



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on 25.04.2024.

9. *I respectfully submit that the 3rd respondent has replied to the De-occupation notice dated 25.04.2024 through his advocate on 23.05.2024, stating that there are suits and appeals are pending in courts regarding the subject property and 3rd respondent has also obtained a decree in his favor and thus to recall the De-occupation notice.*

10. *I respectfully submit that as per the inspection made by the Assistant Engineer, Greater Chennai Corporation on 19.02.2025, the 3rd respondent has not undergone any construction after the issuance of Stop Work Notice / Calling for approval plan dated 31.07.2023 and there is no any further construction noticed in the subject building. Further, the 3rd respondent on 21.02.2025 made a representation requesting some time to complete the proceedings before the Hon'ble court and to apply for the required plan and to obtain such authorization that is needed and abide by laws."*

5. During the pendency of the civil dispute or otherwise the unauthorised



construction cannot be allowed. Any building requires a building plan permission from the competent authority. In the absence of any such building plan approval, the competent authority is empowered to initiate enforcement action and demolish the unauthorised construction.

6. In the present case, a notice to lock and seal to the premises under Section 56 and Sub Section 2(A) and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 was issued on 25.04.2024. The 3rd respondent has replied through his advocate on 23.05.2024, stating that civil litigation between the writ petitioner and 3rd respondent is pending. However, such a reply by the 3rd respondent is sufficient to protect the unauthorised construction. Mere pendency of a civil dispute will not be a ground to escape from the clutches of an illegal act. It is to be dealt with appropriately in the manner contemplated.

7. In the present case, public authorities have already initiated action and therefore, it is to be continued by following further procedures and unauthorised



constructions are to be demolished. In view of the above facts and circumstances, the respondent 1 and 2 are directed to complete the procedures as expeditiously as possible and demolish the unauthorised construction put up by the 3rd respondent. The said exercise is directed to be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

8. With the above directions, the Writ Petition stands disposed of. No costs.

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

10-03-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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To

1.The Commissioner
Greater Chennai Corporation, Chennai-
600 003.

2.The Executive Engineer / Z-12,
Greater Chennai Corporation, Alandur.

3.R.V.Arul
S/o.R.V.Rajan, No.1, Income Tax
Colony, Adambakkam, Chennai-600
088.



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

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