



W.P.No.35093 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.P.No.35093 of 2024

C.Kumar

... Petitioner

Vs.

1.The Chennai Metropolitan Development Authority (CMDA)
represented by its Member Secretary,
"Thalamuthu Natarajan Building"
No.1, Gandhi Irwin Road, Egmore,
Chennai - 600 008.

2.The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai - 600 003.

3.The Executive Engineer,
Zone - 9, Greater Chennai Corporation,
No.1, Lake Area 4th Cross Street,
Nungambakkam, Chennai - 600 034.

4.The Superintending Engineer,
TANGEDCO, CEDC/Central,
110 KV SS Complex,
Valluvarkottam, Chennai - 600 034.

5.Rajaboopathy Pandian

... Respondents



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PRAYER: Writ Petition Filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st to 4th respondents to remove the unauthorized constructions erected in Door No.4/151, Dr.Radhakrishnan Salai, Mylapore, Chennai - 600 004 after disconnecting EB Service Connection.

For Petitioner : Mr.T.Dharani
for Mr.K.Raja
For 1st Respondent : Mr.C.Manoharan
For Respondents 2 & 3 : Mr.Suresh Kumar,
Additional Advocate General
for Mr.D.B.R.Prabu
For 4th Respondent : Mr.L.Jaivenkatesh

ORDER

(Order of the Court was made by **R.SUBRAMANIAN, J.**)

Heard Mr.T.Dharani, learned counsel appearing for the petitioner,
Mr.C.Manoharan, learned counsel appearing for the 1st respondent,
Mr.M.Suresh Kumar, learned Additional Advocate General instructed by
Mr.D.B.R.Prabhu, learned counsel appearing for the respondents 2 and 3 and
Mr.L.Jai Venkatesh, learned counsel appearing for the 4th respondent.

2. The prayer in the writ petition is for a mandamus directing the



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Authorities to remove the unauthorized construction put up at Door No.4/151

Dr.Radhakrishnan Salai, Mylapore, Chennai-600 004.

3. Finding that a huge building with four floors had come up in one of the main arterial roads in Chennai, we had passed the following orders on 26.11.2024:

Mr.M.Pugazhendhi, Executive Engineer, Zone – IX, Greater Chennai Corporation, has filed a status report, wherein it is stated that after receipt of the complaint by the petitioner regarding the unauthorized structure at Door No.4/151, Dr.Radhakrishnan Salai, Mylapore, Chennai – 600 004, it was inspected by the officials of the Corporation and a notice dated 14.03.2024 has been issued for production of documents.

2. Since the same was not complied with, an inspection was carried out on 13.06.2024 and thereafter nothing was done till this writ petition was filed. On 22.11.2024 the learned counsel for the Corporation took notice in this writ petition and took time to file a status report. Thereafter, a notice requiring removal of unauthorized development carried out was issued on 23.11.2024 and granting 30 days time to the owner to bring the building back to its original condition. It is also stated that further action will be taken.

3. On a perusal of the photographs that have been placed before us we find that a pucca building with ground, first,



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second and third floors have been constructed and completed.

There are mobile phone towers erected on the roof top. The erection of mobile phone towers require approval by the Corporation also. It is not known as to how permission was granted for erection of mobile phone tower in the building which is totally unauthorized.

4. We therefore require the Engineer in Chief of the Public Works Department, Government of Tamil Nadu to depute competent personnel as Commissioner of this Court to assess the age of the building and file a report. A copy of the report shall be furnished to the Commissioner, Chennai Corporation.

5. The Commissioner, Chennai Corporation will then initiate appropriate disciplinary action against all persons who served as Assistant Engineer and Executive Engineer of Zone - IX from the date of construction till today for not taking any action against the violations and a report shall be filed into this Court on the disciplinary action taken against the Engineers, since we firmly believe that the Engineers of Chennai Corporation were completely negligent in carrying out their duties, resulting in such unauthorized developments coming up in one of the main arterial Roads in Chennai.

6. The Registry is directed to issue a copy of this order to the Engineer in Chief of the Public Works Department forthwith and he shall conduct an inspection through his officials within a



week from the date of receipt of a copy of this order and file a report before us by 10.12.2024.

7. Post on 10.12.2024.

4. Pursuant to the direction Mr.E.Emmanuel Jaikar, Executive Engineer, PWD, South Presidency Division, Chepauk had inspected the property along with the officials of the Corporation and has certified that the age of the building is between 7 to 8 years. It is thus clear that the building is constructed some time in 2017.

5. Thereafter, Mr.J.Kumaragurubaran,I.A.S, Commissioner, Greater Chennai Corporation has filed an additional status report stating that action has been initiated against those persons who were in-charge as Assistant Engineers, Assistant Executive Engineers and Executive Engineers at the relevant period. The additional status report filed by the Commissioner also reveals that action has been taken for locking and sealing of the building and the building had in fact been locked and sealed.

6. Mr.M.T.Arunan, learned counsel appearing for the 5th respondent would contend that there are nearly 1000 such un-authorized buildings in that area and he alone has been singled out. The learned counsel has also produced



certain photographs to demonstrate that there are several unauthorized constructions in that area.

7. The photographs taken by him are all in the rear side of the building on the Banks of the canal, which is a slum area. So the fact that there are some unauthorized buildings in slum areas cannot be taken advantage of by the 5th respondent to contend that his unauthorized construction should also be allowed to be there.

8. It is again the grievance of Mr.M.T.Arunan, learned counsel for the 5th respondent that both the buildings in Door Nos.150 and 151 have been sealed by the Corporation.

9. From the photographs produced it is seen that both the Door numbers are in one building and there is only one entrance to that building, though it has got two door numbers. Admittedly, there is no sanctioned plan for the construction and the construction has been put up without leaving any set back on any side. In the absence of a sanctioned plan, the entire building becomes an illegal construction and hence the authorities have duty / obligation to take action. Now, that the action is underway, we direct the Authorities to continue



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the action, pursue it to its logical conclusion, including removal of any unauthorized constructions.

10. Mr.M.T.Arunan, learned counsel would also contend that the case has been filed by a person who is fighting a civil suit against the 5th respondent. That by itself cannot be a ground to permit the unauthorized construction to exist. The respondents are under statutory obligation to have the unauthorized construction removed.

11. The disciplinary proceedings initiated against the officers concerned shall also be continued to its logical conclusion and upon conclusion of the action taken under the Town and Country Planning Act, compliance report shall be filed in this Court.

12. Upon filing of the compliance report, the Registry will place the same before the appropriate Bench.

13. This Writ Petition is disposed of with the above directions. No costs.



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(R.S.M.,J.) (C.K.,J.)
24.01.2025

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Index : No

Internet : Yes

Neutral Citation : No

Speaking order



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To

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