



WEB COPY

WP No. 26004 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-04-2025

CORAM

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

**WP No. 26004 of 2024
and
WMP No.28409 of 2024**

1. S.Paulpandian
A.P.No.1223A, 77th Street, 12th Sector
K.K.Nagar, Chennai-600 078.

Petitioner(s)

Vs

1. The Additional Secretary (Technical)
Housing and Urban Development
Department, Fort St George,
Secretariat, Chennai-600 009.

2.The Executive Engineer
Zone-X, Greater Chennai Corporation,
No.117, N.S.K. Salai, Kodambakkam,
Chennai-600 024.

3.The Assistant Executive Engineer
Zone-X, Unit-28, Greater Chennai
Corporation, No.117, N.S.K. Salai,
Kodambakkam, Chennai-600 024.



4.The Assistant Engineer
Division 137, Unit 28, Zone X,
Greater Chennai Corporation, No.117,
N.S.K. Salai, Kodambakkam,
Chennai-600 024.

Respondent(s)

PRAYER

Calling for the records of the 1st respondent in their Letter No.5844228/ UD VI (3) / 2023-4 dated 23.03.2024 followed by its consequential letter dated 08.05.2024, quash the same and consequently direct the 1st respondent to hear the revision afresh in the light of the grounds raised in the review petition with the necessary documents as and when furnished by the authorities concerned in accordance with law.

For Petitioner(s): Mr.R.Thiagarajan

For Respondent(s): Mrs.E.Ranganayaki,
Additional Government Pleader
For R1

Mr.D.B.R.Prabhu,
Standing Counsel for GCC
For RR2 to 4

ORDER

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

The writ on hand has been instituted to assail the letter issued by the Government on 23.03.2024 under Section 80-A of the Tamil Nadu Town and Country Planning Act.



2. Based on the complaint, the Chennai Corporation authorities conducted inspection and survey, identified unauthorized construction put up by the petitioner in the subject property. Enforcement actions commenced and the petitioner filed a revision under Section 80-A of the Tamil Nadu Town and Country Planning Act on 11.10.2023. The Government elaborately adjudicated the issues on merits by affording opportunity to the parties and passed final orders vide letter dated 23.03.2024 and the operative portion of the order reads as under:

“10.Considering the above facts and submissions made, the Government hereby direct the Greater Chennai Corporation to issue revised LSD notice, stating all deviations/violations in the building with reference to the approved plan obtained in 1982 for Ground and First Floor within 10 days. The petitioner is granted three months time from the date of issue of revised LSD notice to enable the petitioner to rectify the deviations/violations in the building to satisfy the rules and to obtain revised approval for the rectified building as per Tamil Nadu Combined Development and Building Rules, 2019. Till such time there shall be a stay on the Locking & Sealing Notice dated 22.06.2023 and De-occupation Notice dated 13.09.2023 and all other proceedings of Greater Chennai Corporation issued in respect of the said premises. On expiry of the said period of three months time Greater Chennai Corporation shall proceed with further action against the building, if the petitioner



failed to comply the above direction within the time specified.

11.The revision petition filed by Thiru.S.Palpandian under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 is disposed accordingly.”

3. Mr.R.Thiagarajan, learned counsel appearing on behalf of the petitioner would submit that an application seeking regularization of unauthorized construction has been moved by the petitioner before the Government which is pending. This Court time and again reiterated that the Building Plan Rules in force are being abused, on account of the fact that the Government paved way for submission of application seeking regularization of unauthorized buildings. Such a situation cannot be allowed to continue, in view of the fact that large scale building violations are causing nuisance to the neighbours and the people residing in that locality. That apart, such unauthorized constructions are posing threat to the life of the people residing in that locality and the road users. More specifically, the purpose for which, the Building Plan Rules are enforced, lost its relevance and objectives on account of entertaining such application seeking regularization and keeping the same pending for an indefinite period.



4. The mindset of the people is that they can violate building plan permission and construct unauthorized buildings and by merely filing a regularization application they can protect the unauthorized construction for a prolonged period so that they can escape from the clutches of enforcement action under the relevant provisions of law. Such mindset is not only dangerous but would affect the environment, right to life to the citizen under the constitution and other pollution related issues. Therefore, the Government is expected to be vigilant in allowing such unauthorized construction to go on. Even during the construction of building, the authorities competent are duty bound to conduct inspection and monitor the unauthorized constructions and in the event of any such unauthorized construction, enforcement actions are to be initiated immediately, so as to restore the building as per the building plan approval granted in accordance with the provisions of the Tamil Nadu Town and Country Planning Act.

5. The lapses, negligence, dereliction of duty and corrupt practices of these public servants are paving way for construction of unauthorized buildings



in the entire state, which is posing a threat to the citizen and their life. It is in the public domain that these Corporation and Municipal authorities are indulging in corrupt practices in connivance with other law enforcing agencies for allowing unauthorized constructions to go on. Unless, the Government interfere and initiate appropriate actions, they are failing in their duty to honour the constitutional mandates.

6. Pertinently, the Hon'ble Supreme Court of India issued directions in rem in the case of ***Rajendra Kumar Barjatya vs U.P. Avas Evam Vikas Parishad*** reported in ***AIR 2025 SC 259*** and the directions issued in paragraph Nos.20 & 21 of the judgment are extracted hereunder:

20. In the ultimate analysis, we are of the opinion that construction(s) put up in violation of or deviation from the building plan approved by the local authority and the constructions which are audaciously put up without any building planning approval, cannot be encouraged. Each and every construction must be made scrupulously following and strictly adhering to the Rules. In the event of any violation being brought to the notice of the Courts, it has to be curtailed with iron hands and any lenience afforded to them would amount to showing misplaced sympathy. Delay in directing rectification of illegalities, administrative failure, regulatory inefficiency, cost



WEB COPY



of construction and investment, negligence and laxity on the part of the authorities concerned in performing their obligation(s) under the Act, cannot be used as a shield to defend action taken against the illegal/unauthorized constructions. That apart, the State Governments often seek to enrich themselves through the process of regularisation by condoning/ratifying the violations and illegalities. The State is unmindful that this gain is insignificant compared to the long-term damage it causes to the orderly urban development and irreversible adverse impact on the environment. Hence, regularization schemes must be brought out only in exceptional circumstances and as a onetime measure for residential houses after a detailed survey and considering the nature of land, fertility, usage, impact on the environment, availability and distribution of resources, proximity to water bodies/rivers and larger public interest. Unauthorised constructions, apart from posing a threat to the life of the occupants and the citizens living nearby, also have an effect on resources like electricity, ground water and access to roads, which are primarily designed to be made available in orderly development and 31 authorized activities. Master plan or the zonal development cannot be just individual centric but also must be devised keeping in mind the larger interest of the public and the environment. Unless the administration is streamlined and the persons entrusted with the implementation of the act are held accountable for their failure in performing statutory obligations, violations of this nature would go unchecked and become more rampant. If the officials are let scot-free, they will be emboldened and would continue to turn a nelson's eye to all the illegalities resulting in derailment of all planned projects and pollution, disorderly traffic, security risks, etc.

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 be displayed at the construction site, a copy of the approved plan during the entire period of construction and the 32 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 completion/occupation certificate.*

(v) *Even after issuance of completion certificate, deviation / violation if any contrary to the planning permission brought to the notice of the authority immediate steps be taken by the said authority concerned, in accordance with law, against the builder / owner / occupant; and the official, who is*



responsible 33 for issuance of wrongful completion /occupation certificate shall be proceeded departmentally forthwith.

(vi) No permission /licence to conduct any business/trade must be given by any authorities including local bodies of States/Union Territories in any unauthorized building irrespective of it being residential or commercial building.

(vii) The development must be in conformity with the zonal plan and usage.

Any modification to such zonal plan and usage must be taken by strictly following the rules in place and in consideration of the larger public interest and the impact on the environment.

(viii) Whenever any request is made by the respective authority under the planning 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 34 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 should be issued by all the State/UT Governments



WEB COPY



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”.

7. In view of the above Judgment, the Government has to take an appropriate decision to regulate the unauthorized construction and exercise of powers to regularize the unauthorized construction made in violation of the building plan rules. Government is not expected to approbate and reprobate in such matters creating consent the larger public interest.

8. In the present case, the Government has rejected the revision petition filed by the petitioner under Section 80-A of the Tamil Nadu Town and Country Planning Act. In this context, the respondents filed a counter and relevant paragraph Nos.14 and 15 are extracted here under:

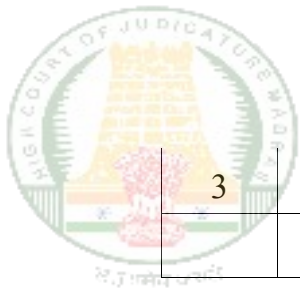


WEB COPY

“14.I humbly submit that considering the above facts and submissions made during the hearing, the 1st respondent herein in Letter No.5844228/VI(1)2024-3, dated 23.03.2024 disposed the revision petition filed by Thiru.S.Paulpandian, the petitioner herein with a direction to the Greater Chennai Corporation to issue revised LSD notice within 10 days, stating all deviations/violations in the building with reference to the approved plan obtained in 1982 for Ground and First Floor. Thereafter, the petitioner was granted three months time to rectify the deviations/violations in the building as per the existing rules and to obtain revised approval for the rectified building as per the Tamil Nadu Combined Development and Building Rules, 2019 and till such time there shall be a stay on the Locking & Sealing Notice dated 22.06.2023 and De-occupation Notice dated 13.09.2023 and all other proceedings of Greater Chennai Corporation issued in respect of the said premises. The 1st respondent herein further directed that on expiry of the said period of three months time, the Greater Chennai Corporation shall proceed with further action against the building, if the petitioner failed to comply the above direction within the time specified.

15.I humbly submit that as per the above order passed in the Letter No.5844228/VI(3)/2024-3 dated 23.03.2024, the Greater Chennai Corporation has issued revised locking and sealing and demolition notice dated 08.05.2024 wherein the particulars of the deviated and unauthorised construction of the said building were furnished as below:-

Sl.No.	Floors	As per Plan	As per Site	Deviation	Remarks
1	G Floor	48.59m ²	81.78m ²	33.19m ²	Deviation
2	F- Floor	41.63m ²	81.78m ²	40.15m ²	Deviation



3	S-Floor	-	81.78m ²	81.78m ²	Unauthorised
	Total	90.22m ²	245.34m ²	155.12m ²	

WEB COPY

The above notice issued by Greater Chennai Corporation is only a consequent action on the orders passed by the Government in Letter No.5844228/UD6(3/2023-4 dated 23.03.2024.

10. In view of the facts and circumstances and the principles set out by the Hon'ble Apex Court in the Judgment cited supra, this Court is of the considered view that the respondents are bound to continue the enforcement actions by following procedures as contemplated under the relevant Statues and Rules in force and based on the Government Order, dated 23.03.2024. The said actions are directed to be taken expeditiously.

11. With these observations, the writ petition stands dismissed. The authorities are directed to conclude the enforcement actions within a period of two (2) weeks from the date of receipt of a copy of this order.

12. The learned counsel Mr.R.Thiagarajan, appearing on behalf of the petitioner would submit that the petitioner himself will demolish the



unauthorized portion of the building and restore the building as per the building plan approval granted in accordance with law. The petitioner is granted three (3) months time to demolish the building.

13. The corporation authorities can monitor the same and in the event of failure, they shall complete the enforcement action by demolishing the unauthorized building and recover the cost from the petitioner. There shall be no order as to costs. Consequently, the connected miscellaneous petition stands closed.

(S.M.SUBRAMANIAM J.) (K.RAJASEKAR J.)
29-04-2025

ssi

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



To

1.The Additional Secretary (Technical)

Housing and Urban Development

Department, Fort St George,

Secretariat, Chennai-600 009.

2.The Executive Engineer

Zone-X, Greater Chennai Corporation,

No.117, N.S.K. Salai, Kodambakkam,

Chennai-600 024.

3.The Assistant Executive Engineer

Zone-X, Unit-28, Greater Chennai

Corporation, No.117, N.S.K. Salai,

Kodambakkam, Chennai-600 024.

4.The Assistant Engineer

Division 137, Unit 28, Zone X,

Greater Chennai Corporation, No.117,

N.S.K. Salai, Kodambakkam,

Chennai-600 024.



WEB COPY

WP No. 26004 of 2024



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

ssi

WP No. 26004 of 2024

29-04-2025