



WEB COPY



R.A.No.191 of 2025

In the High Court of Judicature at Madras

Reserved on 05.8.2025	Delivered on : 11.8.2025
---------------------------------	------------------------------------

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Review Application No.191 of 2025
& WMP.Nos.30090 & 30091 of 2025

M/s.Ocean Lifespaces India Pvt.
Ltd., Guindy, Chennai-32 rep.
by its Managing Director
S.K.Peter

...Applicant

Vs

- 1.Ramaniyam Ocean Dew Owners
Welfare Association, rep.by its
President Mr.K.Muthukumaran,
Ramaniyam Ocean Dew
- 2.The Member Secretary, Chennai
Metropolitan Development
Authority, Thalamuthu Natarajan
Maligai, No.1, Gandhi Irwin Road,
Egmore, Chennai-8.
- 3.The Commissioner, Greater
Chennai Corporation, Ripon
Building, Chennai-3.
- 4.Ramaniyam Real Estates Private
Limited, Chennai-20 rep.by its
Managing Director V.Jagannathan

...Respondents



R.A.No.191 of 2025

WEB COPY

APPLICATION under Order XLVII Rule 1 read with Section 114 of the Civil Procedure Code praying to review the order dated 23.6.2025 in W.P.No.22484 of 2025.

For Applicant	:	Mr.V.Prakash, SC for Ms.Jayasudha
For R1	:	Mr.R.Amizhdhu
For R2	:	Mr.R.Thamarai Selvan, Standing Counsel
For R3	:	Mr.D.B.R.Prabhu, Standing Counsel

ORDER

This application has been filed seeking to review the order dated 23.6.2025 passed in W.P.No.22484 of 2025.

2. Heard the respective learned counsel appearing for the contesting parties.

3. The facts leading to filing of this review application are as follows :



R.A.No.191 of 2025

WEB COPY

(i) The first respondent herein filed the said writ petition seeking for a direction to the Chennai Metropolitan Development Authority (CMDA) to consider their representation dated 02.4.2025 to revoke the planning permission and other related permissions and approvals granted in favour of the review applicant, which is none other than the third respondent in the said writ petition and for other consequential reliefs.

(ii) Based on the averments made in the affidavit filed in support of the said writ petition and the documents that were filed in the paper book, without going into the merits of the case, this Court directed the CMDA to deal with the said representation dated 02.4.2025 by calling for an inquiry and after giving an opportunity to the review applicant as well as the fourth respondent, which is none other than the other builder.

(iii) This Court did not issue any notice to the review applicant, which is the third respondent in the said writ petition considering the fact that an innocuous prayer was sought for and that in any case, the review applicant was going to be given an opportunity at the time of inquiry before the CMDA. After passing the said order dated 23.6.2025, the CMDA seemed to have called upon the review applicant



R.A.No.191 of 2025

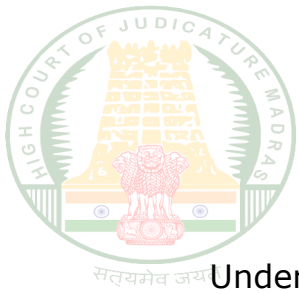
WEB COPY

for an inquiry. Only at that point of time, the review applicant became aware of the order dated 23.6.2025 passed in the said writ petition.

4. The review application came up for hearing on 22.7.2025 and after hearing the learned Senior Counsel appearing on behalf of the review applicant, this Court thought it fit to deal with the review application after affording an opportunity to the learned counsel appearing for the first respondent herein/writ petitioner association. Accordingly, the learned counsel on record for the first respondent herein took notice and the papers were served on him.

5. The review application has been filed mainly on the following grounds :

The writ petitioner association concealed the material facts and did not come to the Court with clean hands. The review applicant ought to have been put on notice before final orders were passed in the said writ petition. Taking advantage of the said order dated 23.6.2025 passed in the said writ petition, the writ petitioner association is publishing notices and is causing huge damage to the on-going construction activities undertaken by the review applicant.



R.A.No.191 of 2025

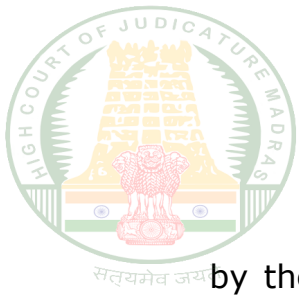
WEB COPY

Under such circumstances, the review applicant sought for review of the said order dated 23.6.2025.

6. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record.

7. The writ petitioner association approached this Court by filing the said writ petition projecting a case that the review applicant had promoted a residential project after getting necessary permission and approval from the CMDA and the Corporation of Chennai, that the project was completed in the year 2018 and that the review applicant as well as the fourth respondent, which is the builder, have obtained approval by fraudulently merging the project, which has already been completed and are, thereafter, causing grave prejudice to the members of the writ petitioner association.

8. On considering the submissions made by the learned Senior Counsel appearing on behalf of the review applicant and the materials placed before this Court, it is seen that the planning permit was given



R.A.No.191 of 2025

WEB COPY

by the CMDA on 24.4.2015 and 05.11.2019 for Phase I and Phase II respectively. As a sample, the construction agreement entered into by the President of the writ petitioner association with the review applicant was brought to the notice of this Court wherein Clause 20 provides as follows :

"The Contracting Party do hereby authorize the Builder, at its discretion, to amend the approved plans in case such amendment is necessitated due to site requirement or market conditions, without materially affecting the floor plan of the Apartment. The Contracting Party further agree/s that they shall not object to the Builder reconstituting the schedule property with the neighboring property/ies. The Contracting Party shall not object to the Builder utilizing such additional FSI/TDR for construction of additional area and the Contracting Party undertake/s that they shall not hinder or obstruct the progress of the construction of the building/s or any part thereof in any manner and undertake that they shall not raise any objection/s in this regard including usage of the set back areas of the proposed building complex in the schedule mentioned property as drive way for neighbouring property development."



R.A.No.191 of 2025

WEB COPY

9. It is seen from the records that a request was made by the fourth respondent namely the builder for the commencement of work at Block 4 of Phase II on the eastern side of Block 2. This request was considered by the writ petitioner association in the Executive Committee Meeting held on 31.7.2021 and it was decided to evaluate the request made by the fourth respondent namely the builder and thereafter take a decision. Pursuant to that, the next meeting was held on 29.8.2021 wherein the following decision was taken :

"4. After the detailed study & verification of CMDA approved site plan of both Phase 1 & Phase 2, Results of survey report carried out of ROOWA, land legal opinion documents and the balance land UDS area available in both phase I & phase 2 projects, due diligence been performed and observed that there are no discrepancy in the reserve UDS, therefore there are no issues in builder continuing the block 4 - Phase 2 construction work as per their plan. It has been mutually agreed by the present EC - ROOWA and previous EC - OB for the builder to continue block 4 of Phase 2 work at the earmarked phase 1 land area without disturbing normal life style and safety of phase 1 residents."



R.A.No.191 of 2025

WEB COPY

10. It is also seen from the records that while the flats were handed over to the respective flat owners, a handing over and taking over agreement dated 20.5.2018 was entered into wherein Clause 8 reads as follows :

"The Party of the First Part confirms that they have already been informed of the development of OCEAN DEW PHASE II in the adjacent land to the Schedule A property morefully set out in the sale deed as well as the construction agreement and that the ingress and the egress to OCEAN DEW PHASE II will be from OCEAN DEW only and the Party of the First Part confirms their consent for the same by signing this agreement.

Further the PARTY OF THE FIRST PART have also been informed that all the amenities provided in OCEAN DEW shall be common to the owners/inmates of both OCEAN DEW and OCEAN DEW PHASE II without any objection or demur by the owners/inmates of OCEAN DEW and likewise all the amenities provided in OCEAN DEW PHASE II shall be common to the owners/inmates of both OCEAN DEW PHASE II and OCEAN DEW without any objection or demur by the owners/inmates of OCEAN DEW PHASE II. "



R.A.No.191 of 2025

WEB COPY

11. It is further seen from the records that the writ petitioner association filed O.S.No.74 of 2025 on the file of the District Munsif cum Judicial Magistrate Court, Sholinganallur against the review applicant seeking for the relief of declaration to declare Clause 7 of the handing over and taking over agreement dated 15.11.2018 executed by its members with the review applicant is null and void and non est in the eye of law and for a consequential injunction to forbear the review applicant from accessing the common amenities including the driveway.

12. It is relevant to take note of the cause of action, based on which, the suit was filed, which is traceable to paragraph 15 of the plaint.

13. It is also seen from the records that the writ petitioner association issued public notices in leading newspapers showing as if they filed a writ petition challenging the planning permit and the building approval granted to the review applicant. The fact remains that the writ petitioner association only sought for an innocuous prayer for considering their representation dated 02.4.2025 whereas the writ



R.A.No.191 of 2025

WEB COPY

petitioner association never challenged the planning permit nor the building approval granted for Phase II.

14. There was absolutely no reference to any of the above facts in the affidavit filed in support of the said writ petition as well as the documents that formed part of the paper book. If all the above facts had been pleaded along with relevant documents, this Court would not have disposed of the said writ petition at the stage of admission and instead, notice would have been ordered to the review applicant. This Court is of the view that the writ petitioner association, by not pleading the material facts and coming before this Court with an innocuous prayer, has attempted to misuse the order dated 23.6.2025 passed by this Court.

15. That apart, the agreement, based on which, the review applicant is proceeding further with the construction of Phase II has been put to challenge in the pending civil suit. Had this been brought to the notice of this Court, this Court would have directed the parties to agitate their rights before the concerned civil court. The writ petitioner association has not challenged either the planning permits



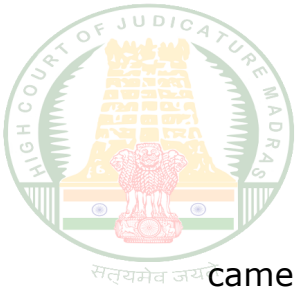
R.A.No.191 of 2025

WEB COPY

that were granted as early as 2015 and 2019 for Phase I and Phase II respectively nor the corresponding the building approval. However, they gave an impression through public notice that the same were put to challenge in the said writ petition.

16. The conduct of the writ petitioner association is highly condemnable since they have intentionally concealed the material facts and failed to file the relevant documents while moving the said writ petition. In other words, the writ petitioner association approached this Court with unclean hands. The entire facts came to surface only after the review application was filed along with all the relevant documents. There was no proper answer forthcoming from the learned counsel on record for the writ petitioner as to why the writ petitioner association did not reveal all the facts in the affidavit filed in support of the said writ petition.

17. The case in hand is a clear abuse of process of law adopted by the writ petitioner association and hence, the order dated 23.6.2025 passed in the said writ petition suffers from an error apparent on the face of the order as the writ petitioner association



R.A.No.191 of 2025

WEB COPY

came before this Court with unclean hands, which, by itself, is sufficient to dismiss the said writ petition. Hence, the same has to be reviewed by this Court.

18. Accordingly, the order dated 23.6.2025 passed in W.P.No. 22484 of 2025 is reviewed. The review application stands allowed. As a consequence, the order dated 23.6.2025 passed in W.P.No.22484 of 2025 is recalled. W.P.No.22484 of 2025 is dismissed. No costs. Consequently, the connected WMPs are closed.

11.8.2025

To

1.The Member Secretary, Chennai
Metropolitan Development
Authority, Thalamuthu Natarajan
Maligai, No.1, Gandhi Irwin Road,
Egmore, Chennai-8.

2.The Commissioner, Greater
Chennai Corporation, Ripon
Building, Chennai-3.

RS



WEB COPY



R.A.No.191 of 2025

N.ANAND VENKATESH,J

RS

Rev.Appln No.191 of 2025 &
& WMP.Nos.30090 & 30091
of 2025

11.8.2025