



W.P.No.32843 of 2017

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M.SUNDAR, J.

and

K. GOVINDARAJAN THILAKAVADI, J.

(Order of the Court was made by M.SUNDAR, J.)

Captioned writ petition is listed today under the cause list caption
'FOR BEING MENTIONED'.

2. Ms.G.Nithisha, learned counsel representing the counsel on record for writ petitioner, Ms.G.Rekha Roshini, learned counsel representing Mr.S.Gopinathan, learned Standing counsel for R1 and R2 and Mr.Mukilvannan, learned counsel representing Ms.Sudha Ramalingam, counsel on record for R3 are before this Court.

3. An inadvertent typographical/clerical error has crept into the order dated 18.02.2025 vide which captioned WP was disposed of by this Court.



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4. In Post Script, the addressees have been shown as follows:

1. The District Collector
Namakkal District
Namakkal
2. The Tahsildar
Tiruchengode Taluk
Tiruchengode
Namakkal District

These addressees will now read as

1. The Commissioner
Greater Chennai Corporation
Ripon Buildings
Chennai – 600 003
2. The Executive Engineer
Greater Chennai Corporation
Division No.57, Zone V
Chennai – 600 001

5. In all other aspects, 18.02.2025 order shall remain the same.

6. To be noted, all the learned counsel consent for the
aforementioned corrections.



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7. This order will now be uploaded as an addendum to 18.02.2025 order and this order will serve as an errata / corrigendum to our already uploaded order dated 18.02.2025. Registry is directed to carry out necessary and consequential corrections.

(M.S.J.) (K.G.T.,J.)

24.03.2025

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M.SUNDAR, J.

and

K. GOVINDARAJAN THILAKAVADI, J.

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24.03.2025



W.P.No.32843 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

W.P.No.32843 of 2017

P.Joitharam

No.116, Audiappa Naicken Street

Chennai -79

Rep. By his Son and Power of Attorney

Vijay Singh @ Kamalesh

(Amended as per order dated 08.01.2018

in W.M.P.No.323 of 2018)

... Petitioner

VS

1. The Commissioner

Greater Chennai Corporation

Ripon Buildings

Chennai – 600 003

2. The Executive Engineer



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Greater Chennai Corporation

Division No.57, Zone V

Chennai – 600 001

3. P.Suresh

S/o.P.Ramamurthy

4. L.Lalchand Pandey

5. Cicily Jose

6. Bhuvaneswari

... Respondents

**(R3 to R6 are impleaded as per order dated 08.01.2018
made in W.M.P.No.463 of 2018)**

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing respondents to take appropriate action to inspect the entire building of the premises situate at No.116, Audiappa Naicken Street, Chennai – 600 079 and issue a report to the effect that if the protrusion in the said building is demolished whether it would result in damage of the entire building or any construction could be put up in the existing building with necessary approval or provide permission for demolishing and reconstruction of new building in the said address or to issue a certificate regarding the stability towards the strength of the entire building as on date based on the petitioner's father's representation dated 12.12.2016.

For Petitioner : Mr.B.Janakiram



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For Respondents: Ms.G.Rekha Roshini
for Mr.S.Gopinathan for R1 and R2

Ms.M.Aprameya
for Ms.Sudha Ramalingam for R3

R4, R5 and R6 – No appearance



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ORDER

[Order of the Court was made by **M.SUNDAR, J.,**]

Half a decade and two years ago (to be precise on 08.12.2017) captioned 'Writ Petition' was presented in this Court. It has been pending in this Court for more than 7 years. This Court finds captioned WP to be a vintage nay ancient matter.

2. In the hearing, today, Mr.B.Janakiram, learned counsel for sole writ petitioner, Mr.G.Rekha Roshini, learned counsel representing Mr.S.Gopinathan, counsel on record for R1 and R2, Ms.M.Aprameya, learned counsel for R3 are before this Court. R4 (Mr.L.Lalchand Pandey), and R5(Ms.Cicily Jose) have been duly served and their names together with full/complete addresses are shown in the cause list but there is no representation. This Court is informed by the Registry that R5 and R6 have been duly served, R6 has entered appearance through a counsel, names of the counsel (Mr.R.C.Manoharan, Mr.N.Ashok Kumar,



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Mr.P.Kamal and Mr.S.R.Sakthi Vigneswaran) are duly shown in the

cause list but there is no representation.

3. Subject matter of captioned WP is a property at 'No.116, Audiappa Naicken Street, Chennai – 600 079' [hereinafter 'said property' for the sake of brevity and convenience]. This Court is informed that said property is a street house. Writ petitioner along with R3 to R6 are co-owners of said property.

4. Captioned writ has been filed with a mandamus prayer qua R1 and R2 as regards protrusion in the superstructure and as to whether demolition of the same will result in damage to the entire building and as to the question regarding whether any construction can be put up in the existing building with necessary approval for demolition and re-construction. A representation dated 12.12.2016 has been sent in this regard. The prayer in the writ petition has been extracted and reproduced as is done in orders of this Court and the same can be usefully referred



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to. R1 and R2 shall be collectively referred to as 'GCC' denoting 'Greater Chennai Corporation'. GCC has filed a counter affidavit dated 05.01.2018 after inspecting said property on 04.01.2018. Most relevant paragraphs of the counter affidavit are Paragraphs 6 to 8 and the same read as follows:

'6.I respectfully submit that as per the representation of the petitioner herein the building in question has been inspected by this respondent along with the Assistant Executive Engineer, Unit – 13, Zone – V and the Assistant Engineer, Division – 57, Unit – 13, Zone – V, Greater Chennai Corporation on 04.01.2018.

7. I respectfully submit that at the time of inspection it was found that the petitioner building is a unauthorised building and the condition of the building is very bad and there was spalling of ceiling and sun shade and the brick work are very weak and exposed to open and if any further construction on the existing building will lead to collapse of the entire building.

8. I respectfully submit that if the petitioner and all



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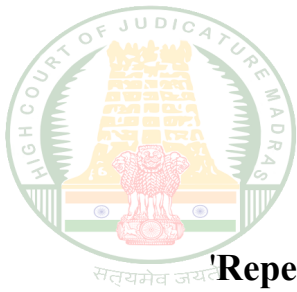


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the other co-owners apply for the demolition and reconstruction of the building at No.116, Audiappa Naicken Street, Chennai – 600 001, the same will be considered and the sanction will be accorded after collecting necessary charges.'

5. This Court, having taken judicial notice of the condition of the building qua said property (that too as it stood 7 years ago), is of the considered view that a safeguard measure is important as it comes across as a dangerous (hazardous) building. It also comes to light that the entire construction is unauthorised.

6. Before we proceed further, it is necessary to set out the obtaining legal position. When the writ petition was filed 'Chennai City Municipal Corporation Act, 1919(Tamil Nadu Act IV of 1919)' [hereinafter 'CCMC Act' for the sake of brevity] was in force. Pending writ petition, to be precise on 13.04.2023, 'the Tamil Nadu Urban Local Bodies Act, 1998 (Tamil Nadu Act 9 of 1999)' [hereinafter 'TNULB Act' for the sake of brevity] kicked in. Section 200 of TNULB Act deals with



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'Repeal and Saving'. CCMC Act has been repealed vide Section Section

200 (1)(a), which reads as follows:

'Section 200(1)(a)

200. Repeal and Saving.- (1) The following Acts are hereby repealed, namely:-

(a) the Chennai City Municipal Corporation Act, 1919 (Tamil Nadu Act IV of 1919);

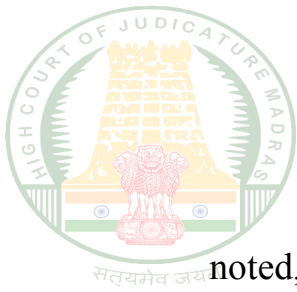
.....

(z)'

7. This Court also deems it appropriate to record that vide Section 200(3)(e) anything done, instituted qua CCMC Act is saved.

8. This Court having set out the obtaining statutory position finds that the inspection made on 04.01.2018 when CCMC Act was operating stands saved vide Section 200 (3)(e) read with Section 200 (1) (a).

9. Reverting to TNULB Act, it is noticed that Part I of Chapter VIII deals with reconstruction, demolition, unauthorised construction and power of GCC as regards dangerous buildings, trees etc., To be



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noted, Chapter VIII is captioned 'BUILDING REGULATIONS IN
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AREAS OTHER THAN HILL STATIONS'. It contains as many as eight

Sections and the details are as follows:

'CHAPTER – VIII

BUILDING REGULATIONS

PART – I

*BUILDING REGULATIONS IN AREAS OTHER THAN HILL
STATIONS*

132. Application of this Part.

*133. Permission to construct or reconstruct or demolish
building.*

134. Penalty for unauthorised construction

*135. Powers of Commissioner to regularise unauthorised
construction*

*136. Power to order removal of dangerous buildings, trees,
etc.,*



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*137. Clearing of fallen trees, structures building material,
etc., in street*

137-A. Permission to construct swimming pool

137-B. Provision of Rain Water Harvesting Structure '

10. It will suffice to give a closure to the captioned WP by directing GCC (R1 and R2) to take immediate steps vide applicable provision under Part I of Chapter VIII of TNULB Act and if necessary resort to Section 136 of TNULB Act, which reads as follows:

'136. Power to order removal of dangerous buildings, trees, etc.—(1) Where it appears to the Commissioner at any time that any building is in a ruinous condition or is in any way dangerous or unfit for human habitation or over crowding in a building, the Commissioner may, by an order in writing, require the owner or the occupier of such building to vacate, demolish, remove such building within the time limit specified in the said order.

(2) Where it appears to the Commissioner at any time that any tree is in a ruinous condition or is in any way dangerous



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condition in any area of a municipality, he may by order in writing remove the tree forthwith.

(3) Where the owner or occupier of the building does not comply with the order issued under this section, the Commissioner shall take such step in relation to the building or tree as may be necessary to prevent any occurrence of danger therefrom.

(4) All expenses incurred by the Commissioner, in relation to any building or tree under this section shall be recoverable from the owner or the occupier thereof, as the case may be, as arrears of land revenue.'

11. In any event, such action will be after show-causing the co-owners, namely writ petitioner, R3 to R6 and all concerned. When show-caused, the noticees i.e., writ petitioner, R3 to R6 and any other person will have their rights and contentions preserved to respond to the show-cause notice.

12. Let GCC commence necessary action as expeditiously as the business of R1 and R2 would permit but in any event within four weeks from today i.e., on or before 18.03.2025.



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13. We make it clear that it is open to co-owners to work out their remedies in a Civil Court if so advised and so desired. Such proceedings in the civil Court, if approached shall proceed on its own merits and in accordance with law untrammelled by this order or proceedings of GCC pursuant to this order.

Captioned writ petition disposed of in the aforesaid manner. There shall be no order as to costs.

(M.S.,J.) (K.G.T.,J.)

18.02.2025

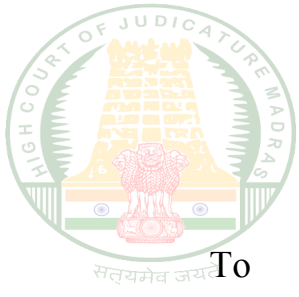
Index : Yes / No

Neutral Citation : Yes / No

Speaking / Non-speaking order

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P.S: Though captioned writ petition is disposed of, list under the cause list caption 'FOR REPORTING COMPLIANCE' on 01.04.2025 (on 01.04.2025 R1 shall file a 'ATR' ('Action Taken Report'))].



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To
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1. The District Collector
Namakkal District
Namakkal

2. The Tahsildar
Tiruchengode Taluk
Tiruchengode
Namakkal District



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and
K.GOVINDARAJAN THILAKAVADI, J.,**

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