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W.P.No.16030 of

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2026

CORAM

**THE HONOURABLE DR. JUSTICE ANITA SUMANTH
and**

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.16030 of 2015

Mrs.Shantha Srinivasan

... Petitioner(s)

Vs.

1. The Secretary to Government,
Housing & Urban Development Department,
Secretariat, Fort St.George, Chennai – 600 009.
2. The Member Secretary, CMDA, Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road, Egmore, Chennai – 600 008.
3. The Commissioner, Chennai City Municipal Corporation
Rippon Buildings, Chennai – 600 002.
4. The Executive Engineer, Zone – IX,
Corporation of Chennai, Zonal Office IX, Chennai.
5. The T.N. Pollution Control Board,
Rep. By its Member-Secretary,
76, Mount Salai, Guindy, Chennai – 600 032.
6. Mr.Arzu Mistry,
7. Mr.Umeed Mistry,
8. Mr.Ravi Raju



9. Mrs.Renu Mistry

10. M/s. Tuscana Kryptos Restaurants (p) Ltd.,
No.150, Royapettah High Road, Royapettah, Chennai – 600 014,
Rep. By its Managing Director, Mr.Vipin Sachdev.

11. Sekhmet Club, Rep. By its Manager,
No.89, Chamiers Road, Alwarpet,
Chennai – 600 018.

... Respondent(s)

[R11 impleaded vide order dated 03.04.2024
made in W.M.P.No.3637 of 2024]

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records on the file of the respondents relating to the Notification dated 06.04.2015 issued second respondent in Ref.No.:VI(1)/89/2015 published in the Tamil Nadu Government Gazette No.15 dated 15.04.2015 permitting the reclassification of the land use zone at New Door No.86, Old Door No.89, Chamiers Road (Pasumpon Muthuramalingam Road), Mylapore in R.S.No.3915/6, Block No.85, Mylapore Village, Mylapore – Triplicane Taluk, Chennai District from primary residential use zone to mixed residential zone and quash the same.

For Petitioner(s) : Mr.T.Saikrishnan

For R1 : Mr.V.Ravi, Special Government Pleader

For R2 : Ms.Veena Suresh, Standing Counsel

For R3 & R4,
R10 & R11 : No appearance

For R5 : Mr.Suchindran

For R6 to R9 : Ms.Akila R.S

**ORDER**

(Order of the Court was made by **MUMMINENI SUDHEER KUMAR, J.**)

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This writ petition has been instituted by the petitioner, who was aged 84 years as on the date of filing of the present writ petition who is now aged about 94 years, assailing the notification dated 06.04.2015 issued by the second respondent in Ref.No.VI(1)/89/2015, published in the Tamil Nadu Government Gazette No.15 dated 15.04.2015, permitting the reclassification of the land use zone at New Door No.86, Old Door No.89, Chamiers Road (Pasumpon Muthuramalingam Road), Mylapore, in R.S.No.3915/6, Block No.85, Mylapore Village, Mylapore–Triplicane Taluk, Chennai District, from Primary Residential Use Zone to Mixed Residential Use Zone, and to quash the same.

2. The trajectory of facts are as under:-

2.1. The petitioner is the widow of a retired Brigadier and an Army Officer, and a war veteran. The petitioner owned the house bearing No.88, Chamiers Road, Alwarpet, Chennai, and has been residing in the said house. While so, on the western side of the said house of the petitioner, i.e., at the respondents 6 to 9, owned the plot of land, bearing No.89, when they started excavating the soil in the year 2010 for putting up a Hotel/Restaurant, the



petitioner made complaints on 12.05.2010 and 03.07.2010, alleging that the respondents 6 to 9 are making unauthorized construction in the said adjacent plot. As there was no action taken by the respondent officials, she approached this Court by filing W.P.No.17770 of 2010, but the same was dismissed on the representation made by the respondents therein that the private respondents herein had obtained planning permission.

2.2. It was thereafter, the petitioner obtained a copy of the said planning permission and contested the same, resulting in cancellation of the said planning permission by the authorities concerned. It was thereafter, the respondents 6 to 9 obtained a fresh planning permission for construction of a residential-cum-partly-commercial building from the third respondent herein. However, according to the petitioner, the construction pursuant to the said sanctioned plan was made in utter violation of the same. Hence, the petitioner started contesting the same again, resulting in issuance of notice dated 09.04.2012 under Section 56(2) of the Tamil Nadu Town and Country Planning Act, 1971 (hereinafter referred to as “the Act, 1971”) to the respondents 6 to 9, and approached this court by filing W.P.No.31088 of 2012. While so, the respondents 6 to 9 made an application to the second respondent for regularization of the construction made by them on 27.04.2012. However,



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the same was rejected by the second respondent by an order dated 18.09.2012.

Aggrieved thereby, the respondents 6 to 9 filed an appeal before the first respondent herein. Thereafter, they approached this Court by filing W.P.No.5583 of 2013 stating that during the pendency of the appeal before the first respondent, the second respondent is taking further action pursuant to the notice dated 09.04.2012, and obtained interim orders. The said writ petitions filed by the petitioner and the respondents 6 to 9 were dismissed by this court on 13.08.2013. The further attempts made by the petitioner herein by filing further writ petitions remained unsuccessful.

2.3. In the meanwhile, the appeal filed by the respondents 6 to 9 was dismissed by the first respondent on 26.09.2013, granting three months time to the respondents 6 to 9 for restoring the building in terms of the approved plan vide PP No.D8/5170/2010 dated 23.11.2010. Aggrieved by the said order of dismissal, dismissing the appeal filed by the respondents 6 to 9, they approached this court once again by filing W.P.No.11664 of 2014, and the petitioner herein approached this Court by filing W.P.No.5647 of 2014 to direct the respondents 1 to 4 herein to take appropriate action against the respondents 6 to 9 herein. However, both the writ petitions also came to be dismissed by this court by order dated 03.06.2014. It was thereafter, the



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respondents 6 to 9, along with the tenth respondent, who was running a restaurant in the subject property, filed Review Application (Writ) No.176 of 2014. In the said review application, this court passed orders dated 08.08.2014 directing for consideration of the application submitted by the respondents 6 to 9 for reclassification of the user zone in accordance with the relevant rules and regulations and further directed to complete the said exercise within a period of eight weeks.

2.4. In the meanwhile, the application submitted by the respondents 6 to 9 for reclassification of the land use was considered by the third respondent, and made a recommendation on 19.02.2014 to reclassify the user zone to the second respondent. The same was considered by the second respondent, and a notification dated 31.05.2014 was issued by way of public advertisement calling for objections from the general public for the proposed variation. In response thereto, the petitioner herein submitted her detailed objections in writing and it was thereafter, the said application of the respondents 6 to 9 was further processed by considering the objections raised by the petitioner herein and others, and the same was approved by the Technical Committee constituted for the said purpose and the same was also approved by the second respondent authority in its meeting held on



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24.12.2014 and the same was notified vide notification dated 06.04.2015, published in the official Gazette on 15.04.2015, reclassifying the land use zone at New Door No.86 and Old Door No.89, Chamiers Road, Mylapore, Chennai.

2.5. It is aggrieved by the said notification, the petitioner filed the present writ petition on various grounds, including the one on the very composition of the Board of the second respondent authority and also alleging certain procedural irregularities such as not affording an opportunity of personal hearing to the petitioner, non-consideration of the written objections raised by the petitioner either by the Technical Committee or by the second respondent authority etc., besides violation of various statutory provisions under the Act, 1971.

2.6. In response, the second respondent filed a counter-affidavit as early as on 01.09.2015, contending that the entire procedure that is required to be followed for reclassifying the land use has been followed strictly in terms of the provisions contained in the Act, 1971. In addition to the same, it is also further stated that the site in question belonging to the respondents 6 to 9 was inspected by the officials of the second respondent and it was found that the



said site abuts a public road of width varying from 13.80 meters to 18.80 meters and the surrounding developments are mixed commercial and residential activities abutting either side of the road. It is also further stated that in terms of the CMDA Development Regulations, (hereinafter referred to as 'the Regulations'), in specific, Regulation 6(8), the properties abutting and gaining access from the roads width above 18 meters are considered to be deemed commercial zone properties, and the CMDA, through the impugned reclassification process, is only fulfilling the objectives of CMDA.

3. The respondents 5, 6 to 10 and 11 filed separate counter-affidavits.

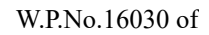
4. We have heard Mr.T.Saikrishnan, learned counsel for the petitioner, Mr.V.Ravi, learned Special Government Pleader appearing for the first respondent, Ms.Veena Suresh, learned Standing Counsel appearing for the second respondent, Mr.Suchindran, learned counsel for the fifth respondent and Ms.Akila R.S, learned counsel for the respondents 6 to 9 and also perused the entire material on record.

5. Though Mr. T. Saikrishnan, learned counsel for the petitioner, advanced arguments in detail on various aspects, including on the



composition of the second respondent authority while holding its meeting on 24.12.2014, non-application of mind on the part of the Technical Committee as well as the second respondent Board while permitting reclassification of the land use, besides arguing on the ground of violation of principles of natural justice, etc. Though we find some substance in the said arguments, we do not deem it necessary to examine the said contentions in the present writ petition in the light of the specific stand taken by the second respondent in its counter-affidavit filed as early as in the year 2015.

6. In the counter-affidavit filed by the second respondent, it was categorically contended that in terms of Regulation 6(8) of the Development Regulations for the Chennai Metropolitan Area framed under the provisions of the Act, 1971, though the areas designated for primary residential or mixed residential use zone in the Master Plan/Detailed Development Plan, the sites abutting and gaining access from roads of width 18 metres and above are deemed to have been zoned for commercial use zone. The learned counsel appearing for the second respondent has also drawn our attention to Regulation 6(7) and Regulation 6(8).



8. In this connection, it would be appropriate to extract the Clause (7) and Clause (8) of Regulation 6 of the Government Regulations for Chennai Metropolitan Area, which reads as under:-

- (1) ...
- (2) ...
- (3) ...
- (4) ...
- (5) ...
- (6) ...

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read with the sub regulation (5) above), sites abutting and gaining access from roads of width 12 m. and above, but less than 18 m. are deemed to have been zoned for mixed residential use zone.

(8) In areas designated for Primary Residential and or Mixed Residential Use zone in the Master Plan/Detailed Development Plan (to be read with the sub regulation 5 above), sites abutting and gaining access from roads of width 18 m. and above are deemed to have been zoned for Commercial use zone.”

9. From Clause (7) of Regulation 6 referred to above, it is evident that in areas designated for primary residential use in the Master Plan/Detailed Development Plan, the sites abutting and gaining access from roads of width 12 metres and above but less than 18 metres are deemed to have been mixed residential use zone. The regulations that are placed before us are the one incorporating all the amendments made up to May, 2013 and originally approved by the Government of Tamil Nadu under G.O (Ms) No.190, H & UD Department, dated 02.09.2008 and notified in the Tamil Nadu Government Gazette Extraordinary No.266, Part II-Section 2 dated 02.09.2008. In the instant case, though the respondents 6 to 9 sought reclassification of land use zone from primary residential zone to commercial use zone, the second respondent, having considered the said application, permitted change of use only to Mixed Residential Use Zone.



10. In the light of the regulations referred to above, even in the absence of the impugned notification, the disputed plot in question is deemed to have been zoned as mixed residential use zone, as the same is admittedly abutting and having access to a road having width of more than 12 metres and less than 18 metres. Even if we interfere with the impugned notification on whatsoever ground, the same would be a futile exercise, as in the absence of the said notification also, the disputed plot in question would be deemed to have been zoned as mixed residential use zone. Therefore, we do not deem it appropriate or necessary to examine the correctness or otherwise of the impugned notification in detail. Therefore, we do not see any reason to examine the validity of the impugned notification in detail, or to interfere with the same.

11. Before parting with the matter, we are constrained to make certain observations keeping in view the facts and circumstances of the case on hand, to preserve the confidence of the general public in the judicial system in our country.



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12. While issuing the impugned notification, the second respondent has also issued an explanatory note to the notification, which reads as under:

*"New Door No.86 (Old D.No.89), Chamiers Road (Pasumpon Muthuramalinga Road), Mylapore in R.S.No.3915/6, Block No.85 of Mylapore village, Mylapore-Triplicane Taluk, Chennai District, Corporation of Chennai" is now reclassified from "**Primary Residential use zone**" to "**Mixed Residential Use Zone**" subject to the conditions that (i) consent from Tamil Nadu Pollution Control Board must be obtained to run the restaurant before commencing its operations, (ii) Planning Permission should be obtained for the existing construction after demolition of the violated portions or fresh approval must be obtained for a new proposal after demolition of existing building."*

13. From the above, it is evident that there is a construction existing which is in violation of the approved plan, and the same is required to be demolished to bring the same within the scope of the approved plan or to obtain a fresh approval after demolishing the existing building. As seen from the facts of the case noted hereinabove, there has been a consistent violation of law by the respondents 6 to 9, and as informed to us during the course of hearing that the construction in question has been under "Lock and Seal" by the third respondent for several years. The petitioner herein, who is the widow of a former Brigadier/Army Officer, has been agitating against the respondents 6 to 9 relentlessly for the past about one and a half decades, and even at the age of 94 years, she is still pursuing the matter to resist the



respondents 6 to 9 from violating the law. All the efforts put in by her for the past one and a half decades shall not go in vain without any result, though we decline to interfere with the impugned notification.

14. In the light of the above, while refusing to interfere with the impugned notification, we direct the respondents 6 to 9 that, in case if they intend to make any new construction or to put the existing construction to use, they can do so only after constructing or bringing the same strictly within the ambit of the approved plan and by strictly following all the rules and regulations applicable thereto. Further, the respondents 2 and 3 are also directed to strictly ensure that the respondents 6 to 9 shall not violate either the approved plan or the rules and regulations that are applicable to the plot in question/ existing structure/ proposed construction. In case, if any violations are noticed in the construction to be made or in the existing construction and the same is allowed to be put to use, the same shall be treated as contempt of this court, and the respondents 6 to 9 or their successors-in-interest and the respondents 2 and 3 shall be straightaway liable for contempt of this Court.



15. Subject to above directions, the writ petition stands dismissed. No

costs.

(Dr.A.S.M.,J.) (M.S.K.,J.)
29.01.2026

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

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2. The Member Secretary, CMDA, Thalamuthu Natarajan Building, No.1, Gandhi Irwin Road, Egmore, Chennai – 600 008.
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