



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-03-2026

CORAM

THE HON'BLE Dr. JUSTICE G. JAYACHANDRAN

AND

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

WP No. 5593 of 2021

and

W.M.P.No.6208 of 2021

Shri Pawan Kumar Agarwal,
Rep by its his Power Agent G. Sridharan,
No. 40,, Kumaran Street,
Ethiraj Swamy Salai, Erukancherry,
Chennai - 600 118.

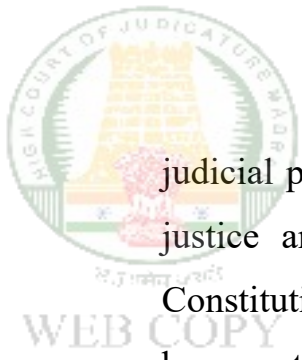
..Petitioner(s)

Vs.

1. The Principal Secretary to Government
Housing and Urban Development UD - 1(1)
Department,
Secretariat, Chennai - 600 009.
2. The Chennai Metropolitan Development
Authority,
Rep by its Member Secretary,
Thalamuthu Natarajan Building,
No. 1, Gandhi Irwin road,
Egmore, Chennai - 600 008.

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the 1st respondent herein dated 30.09.2019 in Housing and Urban Development (UD - 1(1)) Department in G.O.(Ms). No.141 and to quash the same in so far the same has been passed without jurisdiction and authority of law and in clear defiance of the provisions of law and the



judicial pronouncements and also in clear violation of the principles of natural justice and the fundamental rights guaranteed to the petitioner under the Constitution and for a further direction to the respondents to regularise the basement (part), ground floor (part) and the fourth floor (part) of the apartment situated at Old Door No.10, New Door No.23, Damodaramurthy Road, Kilpauk, Chennai-600 010.

For Petitioner(s): M/s. S.Baskaran and
R. Yuvaraj

For Respondent(s): Mr.V.Ravi Special G.P. for R1.
M/s.Veena Suresh, Standing Counsel for R-2

ORDER

(Order of the Court was made by Dr.G.Jayachandran J.)

Aggrieved by the impugned G.O. passed by the Government under Section 79 of the Tamil Nadu Town and Country Planning Act, 1971, in dismissing the appeal filed by the petitioner herein, seeking rectification of the building plan, the present Writ Petition is filed.

2. The brief facts leading to the filing of the Writ Petition, run as follows:

(a) The petitioner herein who claims to be a developer of the building, had entered into a joint-venture-agreement with the original owner on 27.02.2009 and has obtained planning permission from the CMDA on 09.10.2009. Since there was deviation from the approved plan for the building,



the assessee's case was assessed on basement, ground floor and four floors, and stop-work-notice was also issued on CMDA on 13.02.2013. Thereafter, notice under Sections 56 and 57 read with Section 89 of the said Act, was issued by the CMDA on 09.04.2013. Since then, the matter is pending and the promoter has filed writ petition to prevent the authorities from taking action against the unauthorised and illegal construction deviating the approved plan.

(b) Finally, when the rectification was sought, the same was considered by the Committee and rejected, and thereafter, the petitioner has approached the Government by preferring an appeal under Section 79 of the said Act.

(c) The Principal Secretary to Government, Housing and Urban Development (UD-1(1) Department, dated 30.09.2019, after considering the appeal-petition, dated 22.02.2016, received by the writ petitioner, has passed the following order (G.O.(Ms).141):

"1. Member Secretary, Chennai Metropolitan Development Authority, Chennai-8 letter No.C3/(N)/7167/2013, dated 28.05.2013.

2. Appeal petition received Thiru.Pawan Kumar Agarwal, Chennai-1, dated 26.02.2016."

Order:

In his letter first read above the Member Secretary, Chennai Metropolitan Development Authority has rejected the Planning Permission for the regularisation of existing Lower Ground Floor (part) for Office purpose + Stilt (part)/Upper GF (Part) for Office purpose + 1st Floor to 3rd floor + 4th floor part Commercial cum residential building with 7 dwelling units R.S.No.71/13, Block No.6,



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Egmore Village at Old Door No.10, New Door No.23, Damodaramurthy Road, Kilpauk, Chennai-600 001.

2. Aggrieved by this order, Thiru.Pawan Kumar Agarwal Chennai-1, have preferred an appeal before the Government under section 79 of Tamil Nadu Town and Country Planning Act, 1971 against Chennai Metropolitan Development Authority in its letter No.C3/(N)/7167/2013, dated 28.05.2013, for regularisation of building under reference.

3. The above case was placed before the Appeal Committee Meeting held on 13.05.2019 under the Chairmanship of the Principal Secretary to Government, Housing and Urban Development Departments. The minutes of the Appeal Committee is as follows:

"The Appeal Committee went through the records and the contention of the appellant in respect of Lower Ground Floor (part) for office purpose + Stilt (part)/Upper GF (part) for Office purpose + 1st Floor to 3rd Floor + 4th Floor part Commercial cum residential building with 7 dwelling units R.S.No.71/13, Block No.6, Egmore Village at Old Door No.10, New Door No.23, Damodaramurthy Road, Kilpauk, Chennai-600 010.

The appellant appeared in person. The Committee informed about the profile of the building and the violations with reference to TNCD & BR, 2019. The Committee took note that the building was earlier de-sealed based on the Hon'ble High Court order dated 24.09.2014 in W.P.No.24811/2014, enabling the appellant to rectify the deviations and restore the building as per the approved plan. The Committee observed that the appellant did not rectify the building in compliance with the Hon'ble High Court order. Further, the Committee also informed about the Hon'ble High Court order, dated 29.08.2016 in W.P.No.24943/2016, directing that the grievance of the petitioner the appellant herein) to be heard by the



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Appellate Authority within a period of 3 month's time and no coercive action shall be taken till a decision is being taken by the Appellate Authority.

The appellant has informed the Committee that he is one of the owner occupying the 4th floor and all other floors are owned and occupied by other independent owners/occupants and expressed his inability to rectify the setback violations in the upper floor.

The Appeal Committee deliberated the issue in detail and decided to reject the appeal with a direction to Chennai Metropolitan Development Authority for taking enforcement action."

4. Therefore, the Government after careful consideration of recommendation of the Appeal Committee have decided to reject the appeal petition. Accordingly, the Government rejects the appeal filed by Thiru.Pawan Kumar Agarwal Chennai-1, under section 79 of Tamil Nadu Town and Country Planning Act, 1971 against the refusal of Planning Permission Application by Chennai Metropolitan Development Authority in its letter No.C3/(N)/7167/2013, dated 28.05.2013 for the regularisation of existing Lower Ground floor (part) for Office purpose + Stilt (part)/Upper GF(Part) for office purpose + 1st Floor to 3rd Floor + 4th floor part Commercial cum residential building with 7 dwelling units R.S.No.71/13, Block No.6, Egmore Village at Old Door No.10, New Door No.23, Damodaramurthy Road, Kilpauk, Chennai-600 001.

5. The Government also directs Chennai Metropolitan Development Authority to pursue further enforcement action against the building under reference."



(d) Being aggrieved by the above said order, the present Writ Petition is filed by the petitioner - Shri Pawan Kumar Agrawal, stating that the impugned order has not given any plausible reason for demolishing the building and rejecting the application for rectification.

3. This is a case where there is gross violation of set-back and the construction does not even fall under the guidelines for exemption of the buildings issued in the year 2017 by the Government.

4. The contention of the petitioner is that a portion of the basement (part) and ground floor (part), can be utilised for use by the petitioner and therefore, the same may not be demolished for the alleged violation.

5. It is further stated by the petitioner that a portion of the building constructed at the 4th floor, being a residential portion for usage by the petitioner's parents, proposed for residential purpose and the same yard-stick for commercial building need not be applied and the same has to be regularised.

6. This Court, on perusing the grounds of the present Writ Petition, finds that there is gross violation of set-back area and the scope of rectification has been considered and the impugned order had been passed.



7. The plea of the petitioner herein being preposterous and not being accepted by the authorities, rightly, this Court finds no merits in the present Writ Petition, which is accordingly dismissed, there being no ground for interference. There shall be no order as to costs. The Miscellaneous Petition is closed.

(G.J.,J.) (R.S.V.,J.)
09-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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To

1. The Principal Secretary to Government
Housing and Urban Development UD - 1(1) Department,
Secretariat, Chennai - 600 009.

2. The Chennai Metropolitan Development Authority,
Rep by its Member Secretary,
Thalamuthu Natarajan Building,
No. 1, Gandhi Irwin road,
Egmore, Chennai - 600 008.



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WP No. 5593 of 2



**DR.G.JAYACHANDRAN, J.
AND
R.SAKTHIVEL, J.**

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