



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-06-2026

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**THE HON'BLE DR JUSTICE G. JAYACHANDRAN
AND
THE HON'BLE MRS.JUSTICE N. MALA**

Writ Petition No. 21545 of 2026

and

W.M.P.No. 23321 of 2026

Pelita Nasi Kandhar Restaurant
Rep. by its Director Mohammed Siban.S.
S/o. Sirajudeen,
No.27/17, Theyagaraya Road,
T.Nagar, Chennai-600 017.

..Petitioner

Vs

1. Government of Tamil Nadu
Rep. by its Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai-09.
2. The Chennai Metropolitan Development
Authority,
Rep.by its Member Secretary,
No.1, Gandhi Irwin Road,
Egmore,Chennai-08.
3. Sree Venkatachala Flat Owners Association
Rep. by its Secretary
No.27, Sir Theyagaraya Road,
T.Nagar, Chennai-017.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India,
praying to issue a Writ of Certiorarified Mandamus, calling for the records



relating to the impugned order of the 1st respondent in Letter No.11675650/UD 8(2)/2025 dated 21.04.2026 and quash the same as illegal arbitrary, unsustainable in Law consequently direct the 1st respondent to adjudicate the petitioners revision, case a fresh and pass.

For Petitioner: Mr.V.Raghavachari, Senior Advocate
For Mr.AR.M.Arunachalam

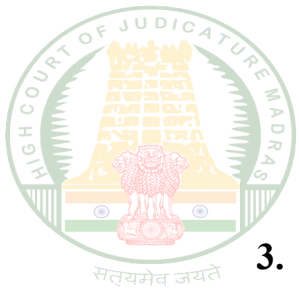
For Respondent(s): Mr.K.Surendar
Government Advocate For R1
Ms.S.Mriudula Royan
Standing Counsel For R2

ORDER

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

This Writ Petition has been filed by the tenant occupying the premises, which have been found to be constructed in violation of building plan permission.

2. The prime submission made on behalf of the petitioner is that, at the instigation of the landlord, who is intent upon evicting the petitioner, a writ petition was filed by the Flat Owners' Association, in which the Court has directed the CMDA to conduct an inspection of the subject property, verify the correctness of the allegations and thereafter undertake the exercise of removing unauthorized construction, if any, within a period of twelve weeks. In connivance with the landowners, it is alleged that the impugned notice dated 21.04.2026 was issued, which on the face of it bristles with mala fides.



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3. The learned Senior Counsel appearing on behalf of the petitioner submitted that the deviation from the permitted plan during construction on the second floor is merely an internal change, which does not affect the structural stability of the building so as to warrant demolition. Secondly, by an order of lock and seal, the fundamental right to trade of the petitioner, who has been running restaurant within the premises for the past 23 years, will be deprived without following the due process of law. Thirdly, the request of the petitioner to appoint a qualified structural engineer to inspect the building and verify whether the alleged violation of the building plan will affect the structural stability of the building was not considered by the authorities. The request was rejected on the ground that the petitioner, is not the owner of the building and therefore, there cannot be a request for rectification of the building plan.

4. The learned Government Advocate appearing for the 1st respondent submitted that the subject building has been constructed in violation of the sanctioned building plan, affecting not only a specific portion but the entire structure. Therefore, he submitted that the allegations of mala fides regarding the action taken by the 1st respondent are entirely baseless.

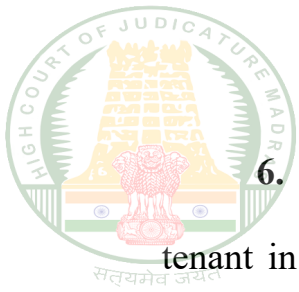
4.1. Insofar as the averment that putting up an additional floor without mezzanine floor as approved will not affect the structural stability of the



building are entirely unsustainable. The approved plan for Block A, in which the petitioner is in occupation, provides for a basement floor plus ground floor plus mezzanine floor plus seven floors. Whereas, the building as it stands comprises a basement floor plus ground floor plus eight floors. The deviation noted is that on the first floor, the approved mezzanine floor has been converted into a first floor restaurant and does not satisfy Completion Certificate (CC) norms. That apart, other violations in Block B involve a construction of a ground floor part plus stilt floor plus eight floor plus ninth floor residential-cum-commercial building with 33 dwelling units. Inspection reveals that a ninth floor has been constructed additionally over and above the approved plan.

4.2. The impugned order is a composite order pointing out the deviations found in the entire building and Form-IV Notice on 19.02.2025, was issued for removal of the unauthorized construction. Meanwhile, the Flat Owners' Association filed a writ petition in W.P.No.19692 of 2024, which was disposed of on 21.04.2025, directing the authorities to proceed after verifying the correctness of the allegations made by the Flat Owners' Association.

5. Heard the learned Senior Counsel for the petitioner and the learned Government Advocate representing the State, as well as the learned Standing Counsel for the CMDA.



6. A perusal of the record discloses that the present writ petitioner is a tenant in the said building, occupying the ground and first floor of Block A, where he runs a restaurant. When the flat owners had made a representation to the authorities alleging that the portion occupied by the writ petitioner is in deviation of the approved plan, thereby affecting their safety and right, the authorities initiated action pursuant to the directions of this Court passed in W.P.No.19692 of 2024 dated 21.04.2025. The operative portion of the order of this Court reads as below:

“2.The petitioner is Flat Owners' Association. Several building plan violations are set out in the affidavit filed in support of the writ petition. Since unauthorised constructions are made, complaint has been given by the petitioner for initiation of action under the relevant provisions of law. The respondents 1 and 2 have failed to initiate action, which resulted in filing of the present writ petition.

3.It is needless to state that on receipt of any such complaint regarding unauthorised construction/deviation, the authorities competent are bound to conduct inspection/survey and identify the violations, unauthorised construction etc., and thereafter, initiate appropriate actions by following procedures as contemplated under the Act and Rules.

4.In the present case, the 1st respondent/CMDA has to initiate appropriate action. Thus, the 1st respondent is directed to conduct inspection in the subject property and verify the correctness of the allegations made by the petitioner in the complaint and thereafter, initiate all appropriate actions, if any, unauthorised construction/deviation are identified, by following the



procedures as contemplated under law. The said exercise is directed to be completed within a period of 12 weeks from the date of receipt of a copy of this order.”

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7. When the authorities issued a notice under Section 56 of the Tamil Nadu Town and Country Planning Act, 1971, directing the petitioner to remove the identified unauthorised structure, the petitioner has approached this Court filing a writ petition in W.P.No.6851 of 2026, seeking a Writ of Certiorarified Mandamus to quash the said notice dated 05.02.2026. The First Bench of this Court passed the following order:-

“2.We find that time and again, parties on both sides are approaching this Court by filing petitions and contempt petitions. Various orders have also been issued.

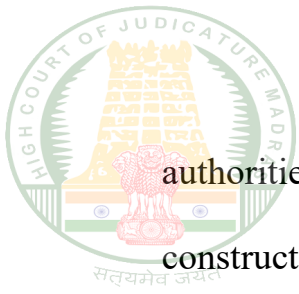
3.Learned Senior Counsel for the petitioner would submit that even though an appeal has been filed and interim order has been granted, these facts are not disclosed to this Court and a contempt petition has been filed; wherein notices have been issued and now the authorities are harassing the petitioner in the name of orders and proceedings of this Court; whereas this Court has not decided any issue one way or the other; but has only directed that compliance report be submitted.

4.List this case along with Cont.P.No.3865 of 2025 before appropriate Bench.

5.Till the next date of hearing, no authority shall take any coercive steps against the petitioner.”

8. Thus, from these orders, the following facts emanate:-

The building as a whole, as well as the portion of the building occupied by the petitioner herein, is not in conformity with the approved plan. The



authorities have taken necessary action for the removal of the unauthorized constructions, which have been identified and intimated to the writ petitioner as well as the other occupants. For easy reference, the deviations and violations observed by the authority in the course of the inspection carried out on 17.04.2026 are extracted below:

“(i) Approval was obtained for the construction of Block ‘A’ with Basement Floor + Ground Floor + Mezzanine Floor + 7 Floors and Block ‘B’ with Stilt (part)/Ground Floor (part) + ‘8’ Floors + 9th Floor (part) Residential- cum- Commercial buildings from Chennai Metropolitan Development Authority in the year 1986.

(ii) As on site, Ground Floor + First Floor (Mezzanine floor converted into first floor) of Block-A is used as restaurant which is in violation to the approved plan.

(iii) The order of the Hon’ble High Court of Madras in Contempt Petition No.3865 of 2025 dated 23.01.2026, De-occupation Notice dated 05.02.2026 was issued to the restaurant portion and it was locked and sealed on 21.02.2026. The restaurant portion was de-sealed on 24.02.2026 based on the request of the revision petitioner to remove the materials.

(iv) The revision petitioner is a tenant running restaurant in Ground floor and First Floor portion in the subject building. The building is in violation to the approved plan as the Basement Floor + Ground Floor + 8 Floors in Block-A is



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constructed against the approval obtained for the Basement Floor + Ground Floor + Mezzanine Floor. The revision petitioner informed that the restaurant runs in the building from the year 2003 and informed that the driveway will be raised and the obstructions in the driveway will be removed. Any structural rectifications or obtaining revised approval for a building owned by multiple owners with undivided shares shall be taken up only by the owners as it involves stability of the building as a whole.”

9. The First Bench of this Court on 26.02.2026 had only restrained the authorities from taking any coercive steps against the petitioner. The said restraining order cannot be used as a shield by violators of the building plan when authorities had resorted to the procedure established under law.

10. The learned Government Advocate submitted that the Flat Owners' Association had filed contempt petition alleging that the order of the coordinate Bench passed in W.P.No.19692 of 2024 dated 21.04.2025 has not been complied. However, when the authorities proceeded to comply with the order of the Division Bench, mala fides were attributed to them. The petitioner, who is not even the owner of the building but merely a tenant occupying a portion of the building, by filing this writ petition is attempting to stall the action to be taken by the authorities pursuant to the orders passed by the Division Bench of this Court. He further submitted that action will be taken for removal of all deviation found in the building without any discrimination.

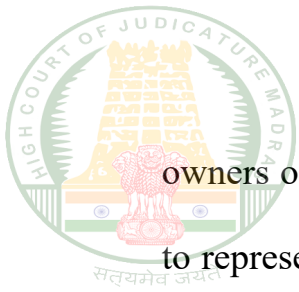


11. We find that the approval for the subject building is for eight floors and the ninth floor part in two blocks. The petitioner is in occupation as a tenant in the ground floor and the first floor which is supposed to be a mezzanine floor. By stalling the action of the authorities, it is not only the petitioner who is going to be benefited unduly but also the other occupants. Hence, we are not inclined to entertain this writ petition for the reasons stated above.

12. The action by the authorities following due process of law against violators cannot be construed as a coercive action.

Finally, regarding the locus standi of the petitioner, it is appropriate to record that the impugned order questions the locus of the petitioner herein, being a tenant of the building, because he, through his counsel, has given representations dated 13.03.2026 and 16.03.2026 to appoint a qualified engineer to inspect the subject building on the aspect of structural stability and file a report. In this context, the authorities have thought that right for seeking revisions, rectifications or inspection of the building by a tenant without the consent of the owners, or even without the authorization of his own landlord, is not permissible. We do not find any error in the said finding.

13. Regarding plan approval, any protest against the action of the authorities for deviation from the plan approval can emanate only from the



owners of the building and not from the tenant, who is not explicitly authorized to represent the owner. Therefore, we find no ground to interfere with the order passed by the Government rejecting the revision petition filed by the writ petitioner herein.

14. Accordingly, this Writ Petition stands dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

(Dr.G.J.,J.) (N.M.,J.)
11-06-2026

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

rpl

To

1.The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development Department,
Secretariat, Chennai-09.

2.The Member Secretary,
The Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore,Chennai-08.



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WP No. 21545 of 2



DR.G.JAYACHANDRAN J.
and
N.MALA J.

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