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W.P.No.34031 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.03.2026

Coram;

THE HONOURABLE Dr.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE SHAMIM AHMED

W.P.No.34031 of 2023
and
W.M.P.Nos.33903 and 33904 of 2023

1. Mr.A.Raghuram
2. Mr.A.Jayashankar

.. Petitioners

Vs.

1. The Additional Secretary (Technical),
Housing and Urban Development,
Secretariat, Fort St.George, Chennai-600 009.
2. The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai-600 003.
3. The Executive Engineer,
Zone-XIII,
Greater Chennai Corporation,
Adyar, Chennai.
4. Mr.Mohammed Nizamuddin Papa
5. Nawab Fazilathunnisa Begum Sahiba's
Mosque Trust and its Endowments,



W.P.No.3403 of 2023

Nandanam, Chennai-600 035.

.. Respondents

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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 of the first respondent bearing Letter No.4898821/UD VI(3)/2023-5, dated 22.09.2023 and quash the same and for direction against the second respondent to not to take any coercive action in respect of the property situated at Old No.43, No.19, New Model Hutment Road, CIT Nagar, Nandanam, Chennai-600 035.

For petitioners :Mr.M.Jaikumar

For respondents: Mr.V.Ravi, Spl.G.P. for R-1

Mr.R.Ramanlal, Addl. Advocate General,
assisted by Mr.D.B.R. Prabju. Standing Counsel
for respondents 2 and 3

ORDER

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

This Writ Petition is filed challenging the order passed by the first respondent on the Revision Petition filed by the petitioner under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971.

2. The background facts of the case, is that the ground + four floors of the Commercial building, is admittedly constructed in the land owned by the Wakf Board.



3. The writ petitioners claim that they had entered into a Memorandum of Understanding with the fourth respondent (Mr.Mohammed Nizamuddin Papa) in the year 2012 for lease of the building for a period of 45 years and paid Rs.1,20,00,000/- as lease amount. They further claim that the fourth respondent had derived the leasehold-right from the said Trust.

4. The further contention of the writ petitioners, is that the construction was put up after obtaining No Objection Certificate from the Trust and also the building plan approval. However, after survey, it was found that the building being put up without proper planning approval and hence, the proceedings for removal, were also initiated by the authorities concerned, commencing from lock and seal notice under Sections 56 and 57 of the said Act. Subsequently, the above said lock and seal notice was challenged unsuccessfully by the writ petitioners. Ultimately, the revision petition was filed under Section 80-A of the said Act before the Additional Secretary to Government. During enquiry, the writ petitioners had sought time for producing the building plan approval. Accordingly, time was also granted, but the petitioners were not able to produce the building plan approval and hence, the impugned order is passed dismissing the Revision Petition, holding that the entire building is being constructed unauthorisedly and necessary action be taken for removal of the same.



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5. Learned counsel for the writ petitioners submitted that the fourth respondent was in possession and enjoyment of the said property in the capacity of a lessee since 17.04.2007, with whom the writ petitioners entered Memorandum of Understanding on 13.02.2012 by paying Rs.1,20,00,000/- as lease amount.

6. It is represented by the fourth respondent that the Wakf has issued No Objection Certificate for construction and the construction is having valid planning permission. However, during enquiry in the said Revision Petition, the fourth respondent failed to hand-over the planning permission. Having received Rs.1,20,00,000/- from the writ petitioners with the knowledge of the fifth respondent/Trust, the State, nor the Trust, can deny the leasehold-right of the writ petitioners. This Court is unable to countenance the said submission.

7. Primarily, the claim of the writ petitioners that there is a valid planning permission itself is an illusory plea. It has been categorically denied by the State that no such permission was granted for the building in question.



8. Secondly, the Trust has categorically disputes the NOC for putting up the construction, nor permitted the transfer of leasehold-right. According to the Trust, the writ petitioners are strangers and there is no privity of contract between the parties.

9. From the impugned order, we find that the building which is now sought to be demolished for want of approval, is constructed firstly without permission of the landlord and secondly, without any planning permission. That could be seen from the impugned order and that the Greater Chennai Corporation has categorically submitted that there is no approval for the subject-building.

10. It is the burden of the writ petitioners to produce the alleged NOC given by the landlord and the alleged building plan approval and the same cannot be shifted to anybody-else.

11. The official respondents 1 and 3 have filed counter affidavit denying the allegations of the writ petitioners.

12. Strangely, in this case, the writ petitioners who had made a claim that the fourth respondent had informed that the NOC had been obtained from the Trust and the



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building has a valid planning approval, it requested the authorities to produce the planning permission.

13. After parting with Rs.1,20,00,000/-, it is strange to believe that he had entered into MoU on being satisfied that the fourth respondent has obtained NOC. Hence, the building plan approval even without physically verifying the said fact. The construction obviously is to be put up, without the planning permission, which has to be demolished. Hence, the order of the first respondent in dismissing the Revision Petition, is hereby upheld.

14.. Hence, for the reasons stated above, the impugned order dismissing the Revision Petition, is confirmed. The present Writ Petition is dismissed. There shall be no order as to costs. Consequently, the Miscellaneous Petitions are closed.

(Dr.G.J., J) (S.S.A., J)

03.03.2026

CS



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To

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2. The Commissioner,
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Dr.G.Jayachandran, J

and

Shamim Ahmed, J

CS

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