

(2011) 04 MAD CK 0164

In the Madras High Court

Case No : Writ Petition No. 9577 of 2011

K. Jayaraman and Others

APPELLANT

Vs

The Chennai Metropolitan Development Authority, The
Corporation of Chennai and The Tamil Nadu Housing Board

RESPONDENT

Date of Decision : 18-04-2011

Acts Referred:

Citation : (2011) 04 MAD CK 0164

Hon'ble Judges : R. Sudhakar, J

Bench : Single Bench

Advocate : S. Ramesh, for the Appellant; C. Kathiravan, for R1, V. Bharathidasan, for R2 and A. Vijayakumar, for R3, for the Respondent

Judgement

R. Sudhakar, J.—Writ Petition is filed praying to issue a Writ of Mandamus, directing the Respondents 1 and 2 to entertain, consider and

grant approval to the demolition plan, planning permission, building permit for developing the lands at Flats in Block No. 85, P.T. Rajan Salai, S.

No. 29 part K.K. Nagar, Kodambakkam Village, Mambalam-Guindy Taluk, Chennai admeasuring about 2 grounds and 2396 square feet for

putting up a residential building without insisting upon the No Objection Certificate from the third Respondent or any other Authority, so long as the

proposed new construction activities is in accordance with the Development Control Rules.

2. Mr. C. Kathiravan, learned Counsel takes notice on behalf of the first Respondent; Mr. V. Bharathidasan, learned Counsel takes notice on

behalf of the second Respondent and Mr. A. Vijayakumar, learned Counsel takes notice on behalf of the third Respondent. By consent, the writ

petition is taken up for final disposal.

3. Petitioners claim to be co-owners of the property originally developed by Tamil Nadu Housing Board. Sale deeds were executed in their favor.

Petitioners intend to promote the property after demolition and in this regard, they approached the Respondents authority to consider and grant

approval to the demolition plan, planning permission, building permit or developing the property. The authorities are refusing to consider their claim

in the absence of no objection certificate issued by the Tamil Nadu Housing Board.

4. Similar issues were considered by the first Bench of this Court in W.A. No. 1052 of 2007, where in it has been observed as follows:

It is not in dispute that the construction was made more than thirty years and the flats allotted to various persons who have paid the entire sale

consideration to the Tamil Nadu Housing Board and in such circumstances, when the property requires a demolition and reconstruction, it is not

proper on the part of the Corporation to ask for No Objection Certificate. It is also brought to our notice that in many number of similar cases, this

Court has held that such No Objection Certificate is not required. In the case of Ramakrishna Nagar Flat allottees/Owners / Co-Operative

Housing Society v. Tamil Nadu Housing Board reported in (1997) TNLJ 420, the Division Bench of this Court has held that after the MIG and

LIG flats are allotted to the allottees, the entire area belonged to the allottees and Housing Board has no control over the possession and

management of the said area.

5. In similar cases, wherever application filed, this Court directed that the said application should be considered by the authorities only with regard

to the construction of the residential property. The same direction will hold well in the present case also.

6. In view of the earlier order of this Court, the Petitioners are at liberty to submit their application along with a copy of this order with all relevant

documents to show the nature of the right over the property and the authorities/ Respondents 1 and 2 shall consider the same as and when

presented without insisting a no objection certificate from the Tamil Nadu Housing Board if the applications are otherwise in order. If the

applications are not accepted for one or other reason, the authority has to state the same and pass a reasoned order in accordance with law within

a reasonable period of time. This writ petition is disposed of accordingly. No costs.