



2026 INSC 912

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO.10045 OF 2026

G. SATHYANARAYANA BOTHRA & OTHERS APPELLANTS

VERSUS

M.D. LOKESWARI & ANOTHER RESPONDENTS

J U D G M E N T

ATUL S. CHANDURKAR, J.

1. The appellants and the first respondent are residents of a building known as 'Indira Arcade'. While the appellants have purchased portion of area on the ground floor to the third floor as well as a portion on the fourth floor, pursuant to a Memorandum of Understanding with M/s Indira Foundations Private Limited, the first respondent being the daughter of the owner of the plot on which the building was erected occupies a portion on the second floor of the said building. The grievance of the first respondent is with regard to excess construction/unauthorised construction/deviations effected at the instance of the appellants on the portions owned by them and also in the building. A direction having been

issued by the Division Bench of the Madras High Court¹ to the Chennai Metropolitan Development Authority², the second respondent, to remove the unauthorised constructions/deviations by the order dated 28.04.2025 in the writ petition preferred by the first respondent, the appellants, being aggrieved have challenged the said order.

2. It is not necessary to refer to various factual aspects. Suffice it to state that initially, the father of the first respondent had filed Writ Petition No.21661/2017 before the High Court with a prayer for issuance of a direction to the CMDA to consider his representation dated 07.07.2017 in the matter of unauthorised construction undertaken by the appellants. By the order dated 28.03.2018, the appellants were directed to rectify the defects in respect of violated portions of the building by 08.06.2018. The writ petition was disposed of but for the purposes of reporting compliance, it was directed to be listed on 22.06.2018. The appellants on 06.06.2018 moved an application for regularisation of the deviations in question. The regularisation was sought under Section 113-C of the Tamil Nadu Town and Country Planning Act,

¹ For short, 'the High Court'.

² For short, 'CMDA'.

1971³ read with Government Order⁴ Nos.110 and 111 dated 22.06.2017.

3. When the aforesaid writ petition was considered for reporting compliance, an undertaking was filed on behalf of the appellants indicating the action taken by them pursuant to the earlier order. The relevant portion of the order of the High Court dated 28.06.2018 reads as under:

“Today when the petition is taken up for hearing, the 6th respondent has filed an affidavit on behalf of the respondents 4 to 7 stating as follows:

"3. I submit that as per the undertaking given by me before this Hon'ble Court, I have removed the 5th floor and as well as the basement internal partitions. Made it usable for parking of vehicles. In so far as the 4th floor of concerned I have already applied for regularisation under Sec. 113C of the Tamil Nadu Town and Country Planning Act to CMDA and the same is pending. In fact after the rectification of 08.06.2018 by enclosing the photographs.

Taking note of the fact that the basement portion has been fully demolished and that an application is pending under the Town and Country Planning Act, this Court, by recording the undertaking and submissions is of the considered view that no further orders are required”.

The application for regularisation in the meanwhile was pending with the CMDA. The first respondent thereafter on 21.04.2023 issued another communication to the CMDA calling upon it to take appropriate action with regard to the deviations/unauthorised construction that continued to exist at

³ For short, 'the Act of 1971'.

⁴ For short, 'G.O.'.

the building. The first respondent then preferred Writ Petition No. 17682/2023 with a prayer to direct the CMDA to decide her representation dated 21.04.2023. The High Court by its order dated 15.06.2023, directed the CMDA to consider the representation dated 21.04.2023 made by the first respondent and pass an order thereon after hearing the appellants as well as the first respondent. Pursuant thereto, the CMDA prepared a report/order dated 09.08.2023 indicating deviations/unauthorised constructions undertaken by the appellants that continued to exist.

4. The appellants were aggrieved by the report/order dated 09.08.2023 issued by the CMDA and, hence, they challenged the aforesaid report/order in Writ Petition No.25737/2023. The High Court on 27.09.2023 allowed the writ petition, since the larger issue with regard to the scope of regularisation of unauthorised constructions under the G.O.s as well as the prayer for regularisation were pending. The relevant portion of the order dated 27.09.2023 reads as under:

“5. It is submitted by the learned counsel for the petitioners that the petitioners filed application for regularisation through online u/s.113-C of the Tamil Nadu Town and Country Planning Act, before the Chennai Metropolitan Development Authority / 1st respondent and the same is pending consideration.

6. The learned Standing Counsel appearing for the respondent relied on the judgment of this Court dated 27.07.2023 in W.P. No.9725 of 2017 and prayed this Court to take a similar view in this matter.

7. The Hon'ble First Bench of this Court in W.P. No.9725 of 2017 [K. Perumal Vs. The State of Tamil Nadu, Rep. by the Secretary to Government and others], by order dated 27.07.2023, while dealing with the writ petitions seeking directions to enforce the locking and sealing and demolition notice, held as under:-

"3. We have disposed of other writ petitions, with an observation that, "if subsequently after the orders are passed by the Apex Court and the petitioners have any remedy open, they are entitled to agitate the same afresh. In that event, all contentions are kept open". We have observed that the parties may take steps pursuant to the judgment of the Apex Court.

4. In case, after the judgment of the Apex Court, if it is found that the fifth respondent is not entitled for regularisation, then the petitioner may agitate afresh, "

8. In view of the fact that the matter regarding regularisation is seized of by the Hon'ble Supreme Court, the respondent has to await the orders of the Hon'ble Supreme Court. The petitioner is entitled, to agitate the issue afresh, after the orders are passed by the Hon'ble Supreme Court, on the subject matter. Till then, the respondent is directed not to take any coercive step against the petitioners.

9. Accordingly, the writ petition is allowed. No costs. Consequently connected miscellaneous petitions are closed."

5. At this stage, it would be necessary to state that under Section 113-C of the Act of 1971, a provision for seeking regularisation of unauthorised construction has been made, subject to complying with necessary requirements. The State Government has issued various Government Orders in consonance with Section 113-C of the Act of 1971. The Division Bench of the High Court in **C. Prabhakaran vs. Dharmendra**

Pratap Yadav & Ors.⁵ by its order dated 06.02.2019 held G.O. Nos.110 and 111 dated 22.06.2017 to be invalid. As a result, it was not permissible to seek regularisation under the said G.O.s. It may be stated that the aforesaid order is the subject matter of the challenge before this Court in **M/s Billroth Hospital Ltd. vs. The State of Tamil Nadu**⁶ at the behest of the CMDA. Various other civil appeals raising a similar challenge are pending.

6. The High Court taking note of the pendency of the aforesaid litigation disposed of various writ petitions wherein the issue of regularisation of unauthorised construction under the said G.O.s was the subject matter. The High Court directed that since the issue was pending before this Court, the parties would be bound by the orders that would be passed in the pending proceedings before this Court. The order dated 27.09.2023 referred to hereinabove as passed by the Division Bench is also on similar lines. As a result of this order, to which the appellants and the CMDA were parties, it was restrained from taking any coercive steps against the appellants till the aforesaid pending issues were decided.

⁵ Contempt Petition No. 1087 of 2017

⁶ Civil Appeal Nos. 6839-6841/2022

7. Be that as it may, the first respondent continued her pursuit of seeking removal of unauthorised constructions/deviations undertaken at the instance of the appellants. She, therefore, on 31.01.2024, made a fresh representation to the CMDA calling upon it to take necessary action on the notice dated 10.11.2023 issued by it under Form IV to the appellants. The representation not having been considered, the first respondent filed Writ Petition No.12779/2024 with a prayer for a direction to the CMDA to consider her representation and take further steps in the matter. Paragraphs 15 to 17 of her affidavit indicate knowledge as regards pendency of the application for regularisation. The said paragraphs read as under:

“ **15.** I state that, on 10.11.2023 the 1st respondent had issued a notice in Notice No. EC/C-II/12765/2017 referring item No.17 in the reference to the notice as the Regularisation Application No. 113C/672/2018 dated 13.10.2023 received under Section 113C of TNT&CP Act, 1971. It is contrary to the statements made in the status report filed by the 1st respondent in Contempt Petition No.2671 of 2023 that, respondents 2 to 5, M/s. Sathyanarayana Bothra and his family members have filed a Regularisation Application in No. Reg. /113C/399/2018 dated 06.06.2018 for regularisation of Basement, GF+4F Commercial building in the disputed above said property.

16. I state that, respondents 2 to 5, M/s. Sathyanarayana Bothra and his family members have filed the Regularisation Application No. Reg./113 C/399/2018 dated 06.06.2018 and Regularisation Application No. 113C/672/2018 dated 13.10.2023 received by the respondent under Section 113C of TNT&CP Act, 1971 for regularisation of Basement GF+4F Commercial building in the disputed above said property without my knowledge. I have sent a representation dated 31.01.2024 to the 1st respondent objecting for the regularisation of Basement, GF+4F Commercial building in the disputed above said property without my knowledge. I had also requested the 1st respondent to refrain from regularising the 4th floor

which is open to sky as per the approved plan and as I am also one of the co-owner of the building and the 4th floor together with the undivided share.

17. I state that, vide my representation dated 31.01.2024 I had also requested the 1st respondent to take action on the Form IV dated 10.11.2023 issued by the 1st respondent in Notice No. EC/C-II/12765/2017 to respondents 2 to 5, M/s. Sathyanarayana Bothra and his family members and restore the setback as per Planning Permission issued by the 1st respondent and as per Planning Permission accorded in No. B/Spl.Bldg./468/2003 dated 16.10.2003 in Letter No. B2/15128/2003 dated 16.01.2003. The 1st respondent has received my representation and has taken any action on my representation.”

8. The Division Bench by its order dated 28.04.2025 observed that it was not permissible to regularise any unauthorised construction nor would pendency of an application for regularisation give a ground for not taking any action against such unauthorised construction. It observed that notwithstanding the pendency of the regularisation application, action ought to be taken to remove the unauthorised portions, as the application for regularisation itself was not maintainable. It is this order that is impugned in the present appeal.

9. We have heard Mr. Balaji Srinivasan, learned counsel for the appellants, Mr. G. Anto Prince, learned counsel for the first respondent and Ms. Jayasree Narasimhan, learned counsel for the second respondent. We have also perused the written submissions placed on record.

10. In our view, the CMDA was governed by the order dated

27.09.2023 passed by the High Court in Writ Petition No.25737/2023 preferred by the appellants inasmuch as it was directed not to take any coercive steps against the appellants in view of pendency of the issues pertaining to regularisation before this Court. The said issue arising out of the subject G.O.s and Section 113-C of the Act of 1971 is still pending. In such a situation, the High Court while deciding the present proceedings ought to have taken into consideration its earlier order dated 27.09.2023 passed in the writ petition preferred by the appellants. Without considering the same and despite pendency of the appellants' regularisation application, a direction to take coercive steps and remove the unauthorised construction has been issued. This has resulted in passing of inconsistent orders with regard to the same subject matter qua the appellants and CMDA. The issue pertaining to regularisation of unauthorised constructions not having been finally resolved and the parties having been directed to await decision in the pending proceedings, in our view, the High Court was not justified in issuing a direction to the CMDA to demolish the unauthorised constructions/deviations within a period of eight weeks from the date of its order. We, therefore, find that the impugned order is unsustainable in law being contrary

to its earlier order dated 27.09.2023 passed in Writ Petition No.25737/2023.

11. In the light of this position on record, the impugned order dated 28.04.2025 passed in Writ Petition No.12779/2024 is set aside. It is directed that the appellants, the CMDA and the second respondent would be governed by the order dated 27.09.2023 passed in Writ Petition No.25737/2023. The appellants and the respondents would be at liberty to take further steps after the issue of regularisation is decided in the pending civil appeals before this Court. In the circumstances of the case, status quo shall be maintained by the parties with regard to the constructions undertaken at the building till the pending issues are decided. The Civil Appeal is allowed in the aforesaid terms, leaving the parties to bear their own costs. Pending Interlocutory Application shall stand disposed of.

.....**J.**
[**UJJAL BHUYAN**]

.....**J.**
[**ATUL S. CHANDURKAR**]

NEW DELHI,
AUGUST 22, 2026.