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W.P.(MD) Nos.819 & 18732 of 2019

and

W.P.(MD) No.6556 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.06.2020

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P. (MD) No.819 of 2019

and

W.P. (MD) No.18732 of 2019

and

W.M.P. (MD) No.15087 of 2019

and

W.P. (MD) No.6556 of 2020

and

W.M.P. (MD) No.5903 of 2020

W.P. (MD) No.819 of 2019:

B.Veeralakshmi

... Petitioner

-vs-

1.State of Tamil Nadu

Rep.by its Secretary to Government
Municipal Administration and Water
Supply Department
Secretariat
Chennai-600 009

2.The Commissioner of Municipal Administration

Chepauk
Chennai-600 005

3.The Director of Town and Country Planning

Annasalai, Chennai-600 002

4.The District Collector

Trichy District, Trichy

5.The Member Secretary

Local Town Planning Authority
Kajamalai
Trichirappalli-620 021



6.The Commissioner
Trichirappalli City Municipal Corporation
Tiruchirappalli

7.K.P.Sarangarajan
President Cum Secretary
Flat No.5, Mahavir Residency
Welfare Association
"A" Block, Trichy-620 018

8.The President
Mahavir Residency
Welfare Association, Flat 28
"B" Block
Trichy-620 018

9.S.Srinivasan
(Building Promoter)
[R9 is impleaded vide Court order
dated 07.08.2019 in W.M.P.(MD)
No.13456 of 2019 in W.P.(MD) No.819
of 2019]

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the Respondents to complete the process of demolition of sealed vacant premises of office room either on their part or permit at the Petitioner's cost with liberty to reimburse the cost of demolition from the respective Association's and also to direct the Respondents No.4 to 6 to pay the Petitioner a just compensation of Rs.3 Lakhs either jointly or severally based on the Petitioner's representation dated 19.11.2018.

For Petitioner: Mr.S.C.Herold Singh

For Respondents: Mr.V.R.Shanmuganathan
Special Government Pleader for R1 to R5
Mr.N.S.Karthikeyan
Standing Counsel for R6
Mr.C.Deepak for R7

W.P. (MD) No.18732 of 2019:

B.Veeralakshmi

... Petitioner

-vs-



- 1.State of Tamil Nadu
Rep.by its Secretary to Government
Municipal Administration and Water
Supply Department
Secretariat, Chennai-600 009
- 2.The Commissioner of Municipal Administration
Chepauk, Chennai-600 005
- 3.The Director of Town and Country Planning
Annasalai
Chennai-600 002
- 4.The District Collector
Trichy District
Trichy-620 001
- 5.The Member Secretary
Local Town Planning Authority
Kajamalai
Trichirappalli-620 023
- 6.The Commissioner
Trichirappalli City Municipal Corporation
Tiruchirappalli-620 001
- 7.S.Srinivasan
(Building Promoter)
- 8.K.P.Sarangarajan
President Cum Secretary
Flat No.5, Mahavir Residency
Welfare Association
"A" Block, Trichy-620 018
- 9.Ponnappan
President
Mahavir Residency
Welfare Association, Flat 20
"B" Block
Trichy-620 018

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records pertaining to the impugned eviction notice issued by the sixth respondent in his proceedings Na.Ka.No.F1/294/2019 (Co.Abi) dated 08.08.2019 and quash the same on the ground that the same is arbitrary, illegal and without any legal basis.



W.P.(MD) Nos.819 & 18732 of 2019

and

W.P.(MD) No.6556 of 2020

For Petitioner : Mr.S.C.Herold Singh

For Respondents: Mr.V.R.Shanmuganathan

Special Government Pleader for R1 to R5

Mr.N.S.Karthikeyan

Standing Counsel for R6

Mr.C.Deepak for R8

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W.P. (MD) No.6556 of 2020:

Natarajan

... Petitioner

-vs-

- 1.State of Tamil Nadu
Rep.by its Secretary to Government
Municipal Administration and Water
Supply Department
Secretariat, Chennai-600 009
- 2.The Commissioner of Municipal Administration
Chepauk, Chennai-600 025
- 3.The Director of Town and Country Planning
Annasalai, Chennai-600 002
- 4.The District Collector
Trichy District
Trichy-600 001
- 5.The Member Secretary
Local Town Planning Authority
Kajamalai
Trichirappalli-620 023
- 6.The Commissioner
Trichirappalli City Municipal Corporation
Tiruchirappalli-620 001
- 7.S.Srinivasan
(Building Promoter)

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records pertaining to the order issued by the sixth respondent through his notice dated 8th August 2019 in proceedings in Naa.Kaa.No.F1/294/2019 (Co.Abi) and quash the same as arbitrary, illegal and without any basis.

<https://hcservices.ecourts.gov.in/hcservices/>



For Petitioner : Mr.V.Meenakshi Sundaram
for Mr.RM.Sivakumar

For Respondents: Mr.V.R.Shanmuganathan
Special Government Pleader for R1 to R5
Mr.N.S.Karthikeyan
Standing Counsel for R6

C O M M O N O R D E R

[Order of the Court was made by P.N.PRAKASH, J.]

One S.Srinivasan is said to have promoted an Apartment Complex, at 10-B, Cross West Street, Thillai Nagar, Trichy, during 2003 and had constructed 32 flats, though he had permission only for 20 flats. He has named it as "Mahavir Residency".

2. One B.Veeralakshmi purchased Flat No.30 and in the ground floor parking area, she constructed an office room unauthorizedly. The Authorities sealed the said office premises and therefore, Veeralakshmi has filed W.P.(MD) No.819 of 2019 with the following prayer:

"It is prayed that this Hon'ble Court may be pleased to issue a writ of mandamus directing the Respondents to complete the process of demolition of sealed vacant premises of office room either on their part or permit at the Petitioner's cost with liberty to reimburse the cost of demolition from the respective Association's and also to direct the Respondents No.4 to 6 to pay the Petitioner a just compensation of Rs.3 Lakhs either jointly or severally based on the Petitioner's representation dated 19.11.2018 and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of this case and thus render Justice."

3. While W.P.(MD) No.819 of 2019 was pending, the Commissioner, Trichirappalli City Municipal Corporation, issued a notice dated 08.08.2019, under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971, calling upon Veeralakshmi to vacate Flat No.30 as it was built in violation of the approved plan. Challenging the notice dated 08.08.2019, Veeralakshmi has filed W.P.(MD) No.18732 of 2019.

4. In the meanwhile, the Authorities demolished the office room on 31.08.2019, that was built by Veeralakshmi in the parking



area, since her appeal under Section 80-A of Tamil Nadu Town and Country Act, 1971 was dismissed by the Government on 02.08.2019.

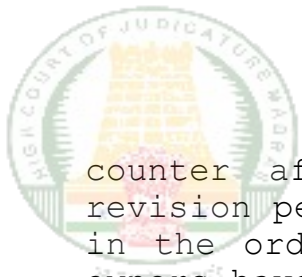
5. One Natarajan, who had purchased Flat No.24 in Mahavir Residency, was also served with a notice dated 08.08.2019 under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971, calling upon him to vacate the premises as the flat was built in violation of the approved plan. Challenging the said notice, Natarajan has filed W.P.(MD) No.6556 of 2020.

6. On notice, Mr.V.R.Shanmuganathan, learned Special Government Pleader, entered appearance and on 17.06.2020, filed a common counter affidavit sworn to by the Member Secretary, Local Town Planning Authority, Tiruchirappalli (fifth respondent in W.P.(MD) No.6556 of 2020). In the said counter affidavit, it is stated that, permission was granted to S.Srinivasan, the Promoter, for constructing only 20 flats, vide order dated 10.10.2002 in Na.Ka.No.19742/2002/PA2, by the Special Commissioner, Town and Country Planning. The said permission was only for ground floor plus 3 floors, apart from basement for parking with permission for putting up five flats in each floor, totalling 20 flats. Whereas, he had built eight flats in each floor, totalling 32 flats, which is not merely a deviation of the approved plan, but a total violation thereof.

7. Further, it is stated in the counter affidavit that, Srinivasan, the Promoter, filed two writ petitions in W.P.(MD) Nos.9539 and 19495 of 2015, but, to no avail. He was given liberty to file a revision petition under Section 80-A of the Town and Country Planning Act. It appears that Srinivasan, the Promoter, sold all the 32 flats to various persons and left them in the lurch to fend for themselves in the action by the Authorities.

8. Further, it is stated in the counter affidavit that, out of the 32 flat owners, 15 flat owners, including Natarajan, the petitioner in W.P.(MD) No.6556 of 2020, have filed revision petitions before the Director of Town and Country Planning, Chennai (third respondent in W.P.(MD) No.6556 of 2020, under Section 80(1) of the Town and Country Planning Act. Suppressing this fact, Natarajan has filed the writ petition in W.P.(MD) No.6556 of 2020.

9. During the course of arguments, Mr.V.R.Shanmuganathan, learned Special Government Pleader, produced the order dated 22.06.2020, passed by the Director of Town and Country Planning, wherein, the revision petitions of 14 flat owners have been rejected on the ground that no planning permission was sought by them under Section 49 of the Town and Country Planning Act. However, liberty has been given to them to file revision to the Government under Section 80-A of the Town and Country Planning Act. Though in the



counter affidavit it is stated that 15 flat owners had filed revision petitions before the Director of Town and Country Planning, in the order dated 22.06.2020, the names of the following 14 flat owners have been mentioned:

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Sl. No.	Name of Flat Owner
1.	Dr.R.Venkateswar & Dr.B.Mythili
2.	Tmt.V.Amutheswari
3.	Tmt.Nashrath Banu
4.	Thiru.T.Rajeshkumar
5.	Thiru.R.G.Mahendran
6.	Thiru.S.Ponnappan
7.	Tmt.Saroja Nanjundan
8.	Tmt.K.S.Rajalakshmi
9.	Thiru.P.Premanand
10.	Thiru.K.Natarajan
11.	Thiru.V.Subrahmanyam & Tmt.S.Rajam
12.	Thiru.P.Jothindran
13.	Thiru.V.Sankaran
14.	Thiru.B.Srinivasan

10. We gave our anxious consideration to the rival submissions.

11. There are totally 32 flat owners, whose names are as follows:

Sl. No.	Name
1.	G.Sivaraman
2.	V.Ravi
3.	K.P.Saranga Rajan
4.	P.Sundar
5.	R.Kumar
6.	G.L.Keshav Bhat
7.	B.Muthusamy
8.	S.Shanmugam Shyamala
9.	Dr.Shaheed Khader
10.	Ramasamy Meenakshi Sundharam



11.	S.P.Kannan
12.	L.Palaniyappan
13.	S.P.Nachal
14.	M.Basheer Ahamed
15.	A.Chithra
16.	K.Kesavan
17.	Dr.Venkateswar & Dr.B.Maithili
18.	R.G.Mahendran
19.	N.Sujareetha
20.	S.Ponnappan
21.	Saroja Nanjundan
22.	K.S.Rajalakshmi
23.	P.Premanand
24.	K.Natarajan
25.	T.Rajesh Kumar
26.	V.Amudeeswari
27.	Nushrath Banu
28.	V.Subrahmanyam & S.Rajam
29.	Mangalambigai
30.	Veeralakshmi
31.	V.Sankaran
32.	B.Srinivasan

Out of them, 14 flat owners had approached the Town and Country Planning and the order dated 22.06.2020 had been passed as stated above.

12. On 18.06.2020, we passed the following order

"During the course of hearing, we found that out of 32 flat owners, only two of them are agitating before this Court.

2. In our opinion, the issue on hand cannot be dealt piecemeal because there appears to be a wholesale violation of building plan, inasmuch as instead of building 5 flats in each floor, the builder appears to have built 8 flats in each floor. Under such circumstances, the

owners, who are silently watching these



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litigations from behind, have to be brought to the forefront, lest they will keep litigating in bits and pieces and thereby, prolonging further action this way or that way by the State. That apart, it is seen that the aggrieved have got a remedy before the Director of Town and Country Planning as well before the Government under Sections 80 and 80-A of the Tamil Nadu Town and Country Planning Act, 1971.

3. In such view of the matter, to give a quietus to the issue wholesale, we deem it necessary to intimate all the 32 flat owners about the pendency of these Writ Petitions before us. The Welfare Association of Mahavir Residency is directed to put a Notice in their Notice Board in the Apartments about the pendency of these Writ Petitions with a request to the members to enter appearance before this Court. The District Collector, Trichy District and the Member Secretary, Local Planning Authority, Kajamalai, Tiruchirappalli, are directed to serve notice on all the 32 flat owners about the pendency of these Writ Petitions. This extraordinary measure is taken by us in order to give one more opportunity for the flat owners, who sometimes may be innocent purchasers and that they should not be put to loss. If they do not avail of this opportunity provided by us, they cannot thereafter plead for equity.

4. Mr.VR.Shanmuganathan, learned Special Government Pleader is directed to get instructions as to the reasons for the delay on the part of the Director of Town and Country Planning for disposing of the petitions filed by some of the flat owners in these cases. He is also directed to give a list containing the names of the 32 flat owners.

5. Call on 24.06.2020."

13. Pursuant to the order dated 18.06.2020, the Authorities have served notice, as directed by us, on all the 32 flat owners.

14. Mr.C.Deepak, Advocate, entered appearance for the President-cum-Secretary of Mahavir Residency Welfare Association, and submitted that the copy of the order dated 18.06.2020, passed by us, was affixed in the Notice Board of the Flat Association.



15. We passed the order dated 18.06.2020 in order to avoid unnecessary litigations by the fence-sitters and those, who adopt an ostrich attitude thinking that by shutting their eyes tightly, they would not suffer any adverse proceedings at the hands of the Authorities. From the notices served on the 32 occupiers by the Authorities, copies of which have been submitted to us and from the representation of Mr.C.Deepak, Advocate, appearing for the Apartment Welfare Association, it is limpid to us that the 32 flat owners cannot feign ignorance of the trouble awaiting them. As stated above, this is not a case, where there are some minor deviations in the approved plan, which can be condoned easily. The flat owners should have jointly approached the Government under the Tamil Nadu Town and Country Planning Act, 1971, for remedy, if any. This Court cannot issue a direction as prayed for by the petitioners for regularizing the illegality. Hence, all these writ petitions are dismissed.

16. However, taking into consideration the fact that some of the flat owners would have been innocent purchasers and also bearing in mind the present Covid-19 situation, we deem it necessary to give an opportunity to the 32 flat owners to approach the State Government under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, on or before 31.08.2020. On account of the Covid-19 pandemic situation, we are relaxing the limitation prescribed in the Town and Country Planning Act as a one time measure. On the flat owners filing petitions under Section 80-A of the Town and Country Planning Act, the State Government, represented by the Secretary, Municipal Administration and Water Supply Department, shall consider the same and pass orders in accordance with law. All the interim orders stand vacated. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



To: கீழ்க்கண்ட

W.P.(MD) Nos.819 & 18732 of 2019

and

W.P.(MD) No.6556 of 2020

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- 1.The Secretary to Government,
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- 2.The Commissioner of Municipal Administration,
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- 3.The Director of Town and Country Planning,
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- 5.The Member Secretary,
Local Town Planning Authority,
Kajamalai,
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W.P. (MD) No.819 of 2019

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24.06.2020

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