



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. [MD]Nos.13168 of 2019 & 18762 of 2020

and

W.M.P. [MD]No.15687 of 2020

Amalorpava Mary

... Petitioner in both Writ Petitions

Vs.

1.The Commissioner,
Tiruchirapalli Municipal Corporation,
Tiruchirapalli District.

2.The Member Secretary,
Trichy Local Planning Authority,
Kaja Malai Main Road,
Kaja Malai,
Tiruchirapalli District.

3.Rani Chinnasamy ... Respondents in W.P.[MD]No.13168/2019

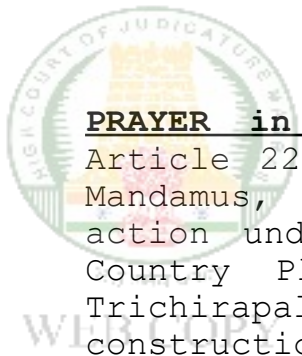
1.The District Collector,
Trichy District,
Trichy.

2.The Commissioner,
Trichy Municipal Corporation,
Trichy,
Trichy District.

3.The Member Secretary,
Trichy Local Planning Authority,
Kaja Malai Main Road,
Kaja Malai,
Trichy,
Trichy District.

4.Rani Chinnasamy ... Respondents in W.P.[MD]No.18762/2020

PRAYER in W.P.[MD]No.13168 of 2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing these respondents to remove unauthorized constructions of the D.No.9, Ward No.57, K.Abishekapuram Region, Karur Bye Pass 100 feet Road, Trichy, within a time frame.



PRAYER in W.P.[MD]No.18762 of 2020: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing these respondents 1 to 3 to take appropriate action under the contemplated provisions of Tamil Nadu Town and Country Planning Act 1971, and Rules therein and under the Trichirapalli Municipal Corporation Act, 1994 as the very construction of a shopping mall itself constructed with the name M.C.Arcade in the D.No.9, Ward No.57, K.Abishekapuram Region, Karur Bye Pass 100 feet Road, Trichy, is without any approval from the respondent 1 to 3 or any other legal authorities within a time frame stipulated by this Court.

For Petitioner	:	Mr.F.X.Eugene [In both Writ Petitions]
For Respondent No.1	:	Mr.S.Saji Bino
For Respondent No.2	:	Mr.K.P.Krishnadass, Special Government Pleader
For Respondent No.3	:	Mr.M.P.Senthil [In W.P.[MD]No.13168 of 2019]
For Respondents 1 & 3	:	Mr.K.P.Krishnadass, Special Government Pleader
For Respondent No.2	:	Mr.S.Saji Bino
For Respondent No.4	:	Mr.M.P.Senthil [In W.P.[MD]No.18762 of 2020]

COMMON ORDER

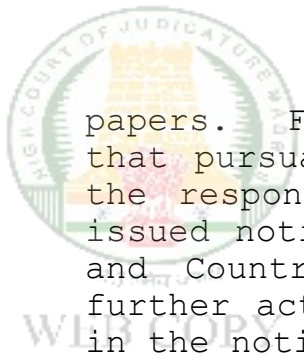
[Common Order of the Court was made by **T.S.SIVAGNANAM, J.**]

With the consent on either side, the Writ Petitions are taken up for final disposal.

2.Heard the learned Counsel on either side.

3.The petitioner, by way of these writ petitions styled as Public Interest Litigations, has virtually sought for an identical relief. The only difference between the prayer in both the writ petitions is that in W.P.[MD]No.13168 of 2019, the petitioner seeks for a direction upon the respondents to remove the unauthorised construction put up by the third / fourth respondent Rani Chinnasamy. In W.P.[MD]No.18762 of 2020, the relief is slightly differently worded on the ground that the petitioner has come to know pursuant to an RTI enquiry that the third / fourth respondent shopping complex is totally unauthorised.

4.We examined the stand taken by the Trichy Corporation and we have heard the learned Standing Counsel who have filed the counter of the Commissioner supported by the document in the typed set of



papers. From the documents placed before us, we are able to see that pursuant to the direction issued in W.P.[MD]No.18762 of 2020, the respondent Corporation have sprung into action and they have issued notice under Section 56(1) and 57(1) of the Tamil Nadu Town and Country Planning Act, 1971 dated 12.01.2021. However, no further action appears to have taken, though 7 days time was fixed in the notice.

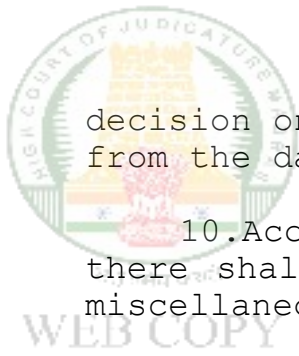
5.Learned Counsel for the petitioner would submit that there is collusion between the third / fourth respondent and officials of the Trichy Corporation. This submission is denied by the learned Standing Counsel for the respondent Corporation.

6.We do not wish to go into this issue and all that we can say is though notice was issued on 12.01.2021, it is not clear as to why the Corporation did not proceed further, though they stipulated 7 days time in the said notice. In the counter affidavit filed by the Commissioner it is stated that the third / fourth respondent has been charge sheeted under Section 447(a) of Coimbatore City Municipal Corporation Act, 1981, which Act is applicable to the Trichy Corporation as well. The stage of the criminal case has not been given and it is not known as to whether the fine imposed on the third / fourth respondent was paid or not. Even assuming that the fine is paid, it will not regularise the construction which is deviated and which is wholly unauthorised and regularised, even if there was an approved plan. In any event, the Trichy Corporation should take the matter to its logical end.

7.Learned Counsel for the third / fourth respondent submitted that there is a background to these litigations and on account of certain writ petitions filed by the third / fourth respondent against the petitioner who is also a builder and in counter, this Writ Petition has been filed.

8.We cannot examine these controversies and all that we are concerned in the instant case is whether the Corporation is justified in keeping quite after issuing notice on 12.01.2021. The only answer to this question is that the Corporation can have no justifiable reason to go slow in the matter. In the light of the above, the writ petitions are disposed of by directing the respondents 2 and 3 to proceed further and pursuant to the notice issued under Section 56(1) and 57(1) of the Tamil Nadu Town and Country Planning Act, 1971 dated 12.01.2021.

9.Learned Counsel for the third / fourth respondent submitted that the construction was put up 19 years ago and they have also sought for regularisation. Efflux of time cannot automatically regularise an unauthorised construction. If there is an application for regularisation, that should be pursued by the respondents 2 and 3 and if any orders are passed, thereon, it can be produced before the respondent Corporation. The respondents 2 and 3 shall take



decision on the above application within a period of eight [8] weeks from the date of receipt of a copy of this order.

10. Accordingly, the Writ Petitions stand disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

MR

To

1. The District Collector,
Trichy District, Trichy.

2. The Commissioner,
Trichy Municipal Corporation,
Trichy, Trichy District.

3. The Member Secretary,
Trichy Local Planning Authority,
Kaja Malai Main Road,
Kaja Malai, Trichy, Trichy District.

+2 CC to M/s.F.X.EUGENE, Advocate (SR-16656,16658[F] dated 20/04/2021)

+1 CC to M/s.S.SAJI BINO, Advocate (SR-16853[F] dated 21/04/2021)

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-16586[F] dated 20/04/2021)

COMMON ORDER MADE IN
W.P. [MD]Nos.13168 of 2019 & 18762 of
2020
19.04.2021

RK(10.05.2021) 4P 8C