



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.19522 of 2021 and

W.M.P. (MD)No.16220 of 2021

WEB COPY

1. K.Raman
2. K.Rangan
3. K.Govindhan
4. S.Padmavathi
5. K.Sridharan
6. Vedhavalli

... Petitioners

Vs.

1. The Assistant Commissioner,
K.Abishekapuram Division,
Trichy Municipal Corporation,
Trichy - 620 017.
2. V.Narayanan
(R-2 is impleaded vide Order dated 21.06.2022
in W.M.P. (MD)No.17594 of 2021)
3. V.Ramanujam
(R-3 is impleaded vide Order dated 21.06.2022
in W.M.P. (MD)No.17899 of 2021)
4. The Deputy Director of Town and Country Planning,
DTCP Regional and Local Planning Office,
11, Kazamali Main Road, Thamarai Nagar,
Kazamalai Colony, Trichy - 625 023.
(R-4 is impleaded vide Order dated 21.06.2022
in W.M.P. (MD)No.2959 of 2022)

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent dated 30.07.2021 vide Proceedings in Na.Ka.No.1255/2021/F1/(Ko.Abhi) and quash the same and direct the first respondent to approve the revised plan submitted by the petitioners within a time frame fixed by this Court.

For Petitioners : Ms.J.Anandhavalli

For R-1 : Mr.R.Baskaran,
Standing Counsel



For R-2

: Mr.P.Santhana Krishnan

For R-3

: Mr.D.Senthil

WEB COPY

ORDER

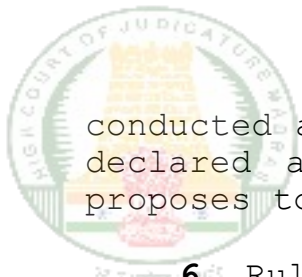
Heard the learned counsel appearing for the writ petitioner and the learned Standing counsel appearing for the Tiruchirappalli Municipal Corporation and the learned counsel appearing for the impleaded private respondents.

2. The petitioner's father purchased a piece of land through a registered sale deed in the year 1969. Following his demise, the property had been divided among the petitioners herein. The partition was also duly registered on 28.01.2019 (document No.522 of 2019) before the Sub Registrar, Woraiyur. Subsequently, the petitioners moved the Town and Country Planning Authority for putting up a residential apartment complex. Their application was also approved. Subsequently, the petitioners wanted to revise the plan for putting up additional construction. It is pointed out by the learned counsel appearing for the private respondents that even without getting approval for the revised construction, the petitioners had put up the same. The revised application was returned by the impugned communication dated 30.07.2021.

3. The Assistant Commissioner, K.Abishekapuram Division, Tiruchirappalli Municipal Corporation took the stand that Rule 35(a) of Tamil Nadu Combined Development and Building Rules 2019 stood infringed. Rule 35 states that buildings upto 18.30m height and exceeding 16 dwelling units and exceeding 300 square meters of commercial building should adhere to the parameters such as minimum road width, height, FSI etc. According to the first respondent, the petitioners had put up construction without any side set back. Questioning the same, the present writ petition has been filed.

4. The learned counsel appearing for the writ petitioners as well as the learned counsel appearing for the private respondents reiterated the stand set out in the respective affidavits.

5. The primary contention of the learned counsel appearing for the petitioners is that the building is being put up in a continuous building area and therefore, it is not necessary to leave any side set back. The learned counsel appearing for the impleaded respondents would contend that till date no such declaration has been made. Since such a stand was earlier taken, this Court directed the authorities to make an inspection. The learned Additional Advocate General appearing for the corporation submitted that pursuant to the said direction given by this Court, inspection was



conducted and it was found that the area in question deserves to be declared as a continuous building area. In fact the local body proposes to make recommendation in that regard.

6. Rule 30(1) of Tamil Nadu Combined Development and Building Rules 2019 is as follows:-

" 30. Area of special character.-

(1) Continuous Building Areas (CBA).- Buildings without side set back are permissible in a plot or site in continuous building areas set apart in the approved Master Plan or Detailed Development Plan or in the other areas as may be declared by the local body as CBA with the approval of the Directorate of Town and Country Planning or Government as the case may be from time to time. However in an approved layout area only in the plots classified for continuous type of buildings it is permissible. "

7. This issue need not be put on hold till the council meeting is convened. The commissioner is the executive authority. The Commissioner is directed to forward the proposal to the Director of Town and Country Planning and after getting his approval, the area in question shall be declared as a continuous building area. The Commissioner, Trichy Municipal Corporation shall forward the proposal to the Director of Town and Country Planning within a period of two weeks from the date of receipt of a copy of this order. The Director of Town and Country Planning shall take a call on the proposal of the local body within a period of three weeks thereafter. Once the area in question is declared as continuous building area, the ground set out in the impugned communication will automatically go. This writ petition stands disposed of with the aforesaid direction.

8. It is needless to add that after the area in question is declared as a continuous building area, the petitioners' application for revised plan shall be disposed of on merits and in accordance with law as expeditiously as possible. I make it clear that there is no restriction for the petitioners to complete the construction to the extent it conforms to the original building plan. The petitioners' counsel categorically states before this Court that no aerial encroachment on the land of the impleaded respondents will be committed. The said undertaking is recorded. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

28/06/2022

Sub Assistant Registrar (CS)



To:

1. The Assistant Commissioner,
K.Abishekapuram Division,
Trichy Municipal Corporation,
Trichy - 620 017.

2. The Deputy Director of Town and Country Planning,
DTCP Regional and Local Planning Office,
11, Kazamali Main Road, Thamarai Nagar,
Kazamalai Colony, Trichy - 625 023.

+1 CC to M/s.P. SANTHANAKRISHNAN, Advocate (SR-28046[F] dated
24/06/2022)

+1 CC to M/s.D.SENTHIL, Advocate (SR-28139[F] dated 27/06/2022)

+1 CC to M/s.J. ANANDHAVALLI, Advocate (SR-28215[F] dated
27/06/2022)

W.P.(MD)No.19522 of 2021
24.06.2022

MGJ(28.06.2022) 4P 6C