



W.M.P.No.9882 of 2023

**W.M.P.No.9882 of 2023 in
W.P.No.6595 of 2023**

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**V.M.VELUMANI,J.
and
V.LAKSHMINARAYANAN,J.**

(Order of the Court was delivered by V.M.VELUMANI,J.)

This W.M.P. is filed to recall the order dated 08.03.2023 made in
W.P.No.6595 of 2023.

2. Mr.R.Manickavel, learned counsel takes notice for the 1st
respondent. Mr.P.Srinivas, learned Standing Counsel takes notice for the
3rd respondent.

3. The 1st respondent filed W.P.No.6595 of 2023 for a direction to
the 2nd respondent to take necessary enforcement action against the
unauthorised construction put up by the petitioners in Plot No.18, Subam
Nagar Part II, Jameen Pallavaram, Chennai-600 044 in terms of letter
dated 30.08.2019 issued by the 2nd respondent.

4. When the Writ Petition was taken up for hearing, this Court by
the order dated 08.03.2023 after considering the materials on record and



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contention of the learned counsel appearing for the 1st respondent that the then Commissioner, Pallavaram Municipality, after issuing lock & seal notice did not proceed further, directed the 3rd respondent to take action for locking & sealing of the unauthorised construction as per the earlier notice dated 21.05.2020 issued to the petitioners within four weeks from the date of receipt of copy of that order. The petitioners have come out with the present W.M.P. to recall the said order. The petitioners have made various averments with regard to title of the property, suits filed by the petitioners as well as 1st respondent for declaration of title and quashing of criminal proceedings against the petitioners.

5. Learned counsel appearing for the petitioners submitted that earlier the then Commissioner, Pallavaram Municipality (now the 3rd respondent in W.M.P.), issued notice under Sections 56 read with 85 of the Tamil Nadu Town and Country Planning Act, dated 25.02.2020 and challenging the same, the petitioners have filed revision under Section 80A of the Tamil Nadu Town and Country Planning Act and the same is pending before the Government. The 3rd respondent in spite of pendency of the revision has issued another notice dated 21.05.2020, which is



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illegal. The 1st respondent has suppressed all the material facts and the respondents 2 & 3 failed to bring to the notice of this Court about the pendency of the revision under Section 80A of the Tamil Nadu Town and Country Planning Act, suits and quashing of FIR and prayed for recalling the order dated 08.03.2023 made in W.P.No.6595 of 2023.

6. Learned counsel appearing for the 1st respondent submitted that against the order passed in Crl.O.P. quashing of FIR, the 1st respondent has filed SLP and the same is pending before the Hon'ble Apex Court. The learned counsel further submitted that the petitioners are not entitled for the relief sought for herein, since the building put up by the petitioners are without any building plan and approval and prayed for dismissal of the W.M.P.

7. Learned Standing Counsel appearing for the 3rd respondent on instruction submitted that revision filed by the petitioners challenging the earlier notice dated 25.02.2020 is pending before the Government and no order is passed.



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8. Heard the learned counsel appearing for the petitioners as well as the learned counsel appearing for the 1st respondent & learned Standing Counsel appearing for the 3rd respondent and perused the entire materials on record.

9. Various averments raised by the petitioners with regard to title, criminal proceedings and pendency of the suits are not relevant to decide the issue in the present Writ Petition. The only point to be considered is pendency of the revision filed by the petitioners under Section 80A of the Tamil Nadu Town and Country Planning Act challenging the earlier notice dated 25.02.2020 issued by the then Commissioner, Pallavaram Municipality was not brought to the notice of this Court. In view of the pendency of the revision before the Government, the order dated 08.03.2023 made in W.P.No.6595 of 2023 is recalled. This Court suo motu impleads "*The Secretary, Tamil Nadu Housing and Urban Development Department, Fort St. George, Chennai-600 009*" as 5th respondent in W.P.No.6595 of 2023. Mr.E.Vijayaanand, learned Additional Government Pleader takes notice for the newly impleaded 5th respondent. He is directed to get instruction with regard to pendency of the revision filed by the petitioners.



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10. Registry is directed to restore Writ Petition No.6595 of 2023 on file for further hearing and carry out necessary amendment in the Writ Petition.

11. Post this matter after two weeks. The petitioners are directed to file counter affidavit in the Writ Petition.

(V.M.V., J) (V.L.N., J)
29.03.2023

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**V.M.VELUMANI,J.
and
V.LAKSHMINARAYANAN,J.**

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in W.P.No.6595 of 2023

29.03.2023