



W.P.No.18649 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.06.2023

Coram:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE P.DHANABAL

Writ Petition No.18649 of 2019

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Mrs.V.Shanthi

.. Petitioner

Vs.

1. The Commissioner,
Directorate of Town and Country Planning,
Sengalvarayan Maligai 4th Floor,
No.807, Anna Salai,
Chennai-600 002.

2. The Assistant Director,
Directorate of Town and Country Planning,
Thiruvannamalai District,
2nd Floor, Opposite to Pariyar Park,
Vellore-632 001.

3. The Commissioner,
Thiruvannamalai Municipal,
Thiruvannamalai,
Thiruvannamalai District.

4. Mr.T.Chandhrakumar

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents 1 to 4 to take action on the illegal construction put-up by the fourth respondent in Door No.6A,

Page No.1/7



W.P.No.18649 of 2019

8th Street, Polur Road, Thiruvannamalai, Thiruvannamalai District in a time bound period as claimed by the petitioner in her representation, dated 19.04.2019.

For petitioner : Mr.K.Mohanamurali

For respondents: Mr.E.Vijay Anand, Addl.G.P. for RR-1 and 2

Mr.P.Srinivas for R-3

No appearance for R-4

ORDER

(The Order of the Court was made by D.Krishnakumar, J)

The petitioner has filed the above petition seeking for issuance of a Writ of Mandamus to direct the respondents 1 to 4 to take action on the illegal construction put-up by the fourth respondent in Door No.6A, 8th Street, Polur Road, Thiruvannamalai, Thiruvannamalai District in a time bound period as claimed by the petitioner in her representation, dated 19.04.2019.

2. It is the case of the petitioner that the fourth respondent has unauthorisedly constructed the building without getting any approval from the competent authority. In that regard, the petitioner made the said representation to the respondents 1 to 3. Since all her efforts taken went in vein and since no steps have been taken, the petitioner has come forward with the present Writ Petition for the relief stated supra.

Page No.2/7



W.P.No.18649 of 2019

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3. Learned Standing Counsel appearing for the third respondent stated that notice has been served under Section 199, 216(1)(2), 313 and 317 of the Tamil Nadu District Municipalities Act. But no further action has been taken by the Municipality. He further stated that necessary action will be taken under the provisions of the said Act for removal of the unauthorised construction.

4. According to the petitioner, at the time of filing of the present Writ petition, the said construction was only at the basement level and now, the entire building has been constructed and is in occupation by the occupants.

5. None appears for the fourth respondent.

6. Such being the circumstances, the main allegation of the petitioner is that the Municipality has not chosen to take action as against the fourth respondent for the illegal construction made in the building with commercial shops. No counter affidavit is filed by the respondents, despite opportunity having been granted by this Court. Thus, we are of the view that such callous attitude on the part of the respondents, especially the Municipality, is completely in violation of the provisions of the Act and also the dereliction of duty of the



W.P.No.18649 of 2019

concerned official who has not even dare to take action for the illegal construction and despite that, they are aware that notice has been served on the respondents by this Court. Hence, this Court has taken serious view of the matter and that if the construction of the fourth respondent is unauthorised by constructing the entire building, partly for commercial purpose and partly for residential purpose, and that the Municipality has simply closed their eyes without taking action and that such action of the Municipality is highly deprecated and necessary disciplinary action shall be taken against the official concerned of the third respondent-Municipality and also to pay compensation amount to the concerned affected persons. The Municipality shall issue necessary notice to the fourth respondent and take necessary statutory action and the said exercise shall be completed within 12 weeks from the date of receipt of a copy of this order. If there is any delay on the part of the Municipality, this Court will take serious view of the matter.

7. Further, the Apex Court in the decision reported in 2021 (10) SCC 1 (Supertech Limited VS. Emerald Court Owner Resident Welfare Association) held that the illegal construction has to be dealt with strictly to ensure compliance with the Rule of Law.

Page No.4/7



W.P.No.18649 of 2019

WEB COPY

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Thiruvannamalai,
Thiruvannamalai District.
4. The Secretary to Government,
Municipal Administration Department,
Secretariat,
Chennai-600 009.



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W.P.No.18649 of 2019

D.KRISHNAKUMAR, J

and

P.DHANABAL, J

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W.P.No.18649 of 2019

28.06.2023

Page No.7/7