



W.M.P.No.23520 of 2023

W.M.P.No.23520 of 2023
in W.P.No.35220 of 2019

J.Nisha Banu,J.

and

N.Mala,J.

This petition has been filed to implead the petitioner as the 7th respondent in W.P.No.35220 of 2019.

2. The affidavit filed along with the impleading petition is extracted below:

"2. The writ petitioner had raised an illegal structure and I was constrained to lodge an objection seeking for its removal. I have filed W.P.No.19299 of 2016 and the Division Bench of this Hon'ble Court on 10.11.2016 had directed the 7th respondent therein namely, the writ petitioner herein to produce the planning permission of the competent authority within a period of 2 weeks. The said authority shall take appropriate action in the event of there being no permission to raise a structure.

3. Thereafter, the authorities concerned, on scrutiny of the material, had passed orders for the locking and sealing of the premises as the structure was raised without permission. The order was passed on 31.01.2019. The structure had been raised, despite a stop work notice being issued on 09.09.2015. At this juncture, it is to be pointed out that the illegal structure was for the purposes of the commercial venture and not less than Rs.5,00,000/- per month is collected as rentals.



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4. I state that the writ petitioner herein had challenged the proceedings of the Deputy Director of Town and Country Planning issued on 31.01.2019 in W.P. 3522/2019. This Hon'ble Court had dismissed the writ petition directing the writ petitioner to work out his right in a manner known to law. The writ petitioner filed an appeal before the Secretary to Government and sought for appropriate orders.

5. The Deputy Director, in the meantime, had passed an order on 08.02.2019, clearly stating that no permission had been granted under Section 47-A of the Town and Country Planning Act and necessarily, the premises should be kept under lock and seal. The show cause notice also states that all the shops should be vacated within 10.02.2019, to enable the sealing of the premises on 11.02.2019.

6. In the meantime, the Government had examined the appeal and had it rejected on 12.11.2019. A personal hearing was conducted on 01.12.2019. The writ petitioner was called upon to submit the Structural Engineer's report and to rectify the error at the site. This stood uncomplained. In paragraph 12, the Government of Tamil Nadu had made it clear that no ground is made for interference in the appeal and accordingly, rejected it. It has also directed enforcement action to be taken. It had referred to the Contempt Petition 1035/2019 dated 02.07.2019 and expected the law enforcement authority to act



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it terms of the provisions of the Town and Country Planning Act.

7. I respectfully state that unmindful of all the proceedings that had taken place earlier, even now in the absence of a planning permit, the statutory respondents took no steps to seal the premises. The object of the statute is to ensure orderliness in the construction. There is absolutely no respect for law by the writ petitioner and equally she had been assisted by persons who are employees of the Town Planning authorities.

8. I respectfully state that Hon'ble Mr. Justice Kaul and Hon'ble Mr. Justice Mahadevan had passed an order on 10.11.2016 and Hon'ble Mr. Justice Sundresh and Hon'ble Mr. Justice Mahadevan had passed orders in the contempt application 2088/2017 on 24.06.2019. Two of the senior judges have even become the judges of the Supreme Court, yet, the officials are unable to take a simple step of demolition of the illegal structure. Paragraph 4 of the said order is extracted hereunder:

"A specific stand is taken by the petitioner that no action is forthcoming. In such view of the matter, the respondents are directed to proceed with the consequential action with regard to demolition of unauthorised construction, if there are no legal impediments."



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9. When the High Court had made a specific direction way back in the year 2019, the inaction of the authorities only aggravates the contempt. Be that as it may, the objections at my instance is pending for the last 9 years and it is quite disheartening that the authorities are not able to act promptly and on time, at least to create an element of fear for persons who violate the law. The matter is pending for the last 9 years. I am under an obligation to bring to the Court the earlier orders passed. I am a proper and necessary party. Ironically, in none of the proceedings initiated by the writ petitioner, I have been arrayed as the respondent. I will file a detailed affidavit and counter on being impleaded."

4. On going through the affidavit as stated above, it is just and necessary to implead the petitioner as a party respondent in W.P.No.35220 of 2019 and therefore, the impleading petition is ordered as prayed for.

5. Registry is directed to carry out necessary amendment in the writ petition.

(J.N.B.J.) (N.M.J.)
01.11.2023
(1/2)

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