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W.P.(MD) No.3538 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.06.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

W.P.(MD) No.3538 of 2023

and

W.M.P(MD)No.3292 of 2023

S.Santhalakshmi
Petitioner

...

-VS-

1.The Commissioner,
Tiruchirappalli City Municipal Corporation,
Tiruchirappalli.

2.The Assistant Commissioner,
Tiruchirappalli City Municipal Corporation,
Office of the Ward Committee No.1,
Tiruchirappalli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the order passed by the second respondent in his proceedings in Na.Ka.F1/7104/2023 dated 13.02.2023 and quash the same as illegal.



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For Petitioner :Mr.T.Lenin Kumar
For Respondents :Mr.R.Baskaran,
Senior Counsel for
M/s.R.B.Law Associates

ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

Challenge in this writ petition is to the notice issued under Section 56(2-A) r/w Section 57 of the Tamil Nadu Town and Country Planning Act, 1971.

2. We had already held that as per the Scheme of the Tamil Nadu Town and Country Planning Act, the authority who seeks to regulate the development has to first issue a notice under Section 56(1) of the Act, requiring the owner to rectify or to remove the illegal development within a period of one month. If the rectification or removal does not happen, then it would be open to the authority to take action under Section 56(2) of the Act. We had disposed of W.P(MD)No.5283 of 2023 solely on the premise that the notice under Section 56(2-A) without issuance of notice under Section 56(1) at the first instance is invalid.



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3. Mr.R.Basakaran, learned Senior Counsel appearing for the respondent Municipality would also fairly submit that in this case, notice under Section 56(1) had not been issued and therefore, the writ petition should be allowed.

4. In view of the said submission of the learned Senior Counsel, the writ petition is allowed. The notice issued under Section 56(2-A) of the Act, is quashed. It will be open to the respondent Municipality to take further action in accordance with law. No Costs. Consequently, consequently connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G.,

27.06.2023

J.]

NCC : Yes/No

Index : Yes/No

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