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W.P.(MD)NO.2032 OF 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.2032 of 2015 AND
M.P.(MD)Nos.1 & 2 of 2015

Shakila Begum

... Petitioner

Vs.

1. The Commissioner,
Tiruchirappalli City Corporation,
Tiruchirappalli.

2. The Assistant Commissioner,
Ponmalai Division,
Tiruchirappalli City Corporation,
Tiruchirappalli.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent Sub No.KA.VIN.EN.707/2014 DATED 24.07.2014 and quash the same and consequently forbear the respondents from demolishing the building raised by the petitioner in her property in Dr.No.65/110 Block No.17 Ward No.J, Heber Road, Beema Nagar, Tiruchirappalli.



For Petitioner : Ms.J.Maria Roseline

For Respondents : Mr.R.Baskaran,
Additional Advocate General.

* * *

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Additional Advocate General appearing for the respondents.

2. The petitioner owns the petition-mentioned building. She got approval for putting up ground floor and first floor. However, she had unauthorisedly put up the second floor also. The respondents therefore issued the impugned demolition notice as well as stop work notice. The petitioner had given a revised application for approval of the construction put up in the second floor also. It was however returned. The petitioner states that it has been resubmitted. The respondents are not quite clear as to whether the returned application was resubmitted or not. As per Section 56(3) of the Tamil Nadu Town and Country Planning Act 1971, when the competent



authority is seized of the matter and is considering the revised application, the unauthorised building shall not be demolished. The impugned order issued by the first respondent is in two parts. While the first part calls upon the petitioner to remove the unauthorised construction, the second part calls upon the petitioner to stop work. While I interfere with the impugned order in respect of the first part alone, the impugned order in respect of the second part calling upon the petitioner stopping work is sustained.

3. Since there is some controversy as to whether the returned application was resubmitted, I direct the petitioner to prepare a fresh set of papers and submit the same before the first respondent. It is for the first respondent to consider whether the unauthorised construction can be regularised. I consciously refrain from issuing any positive direction. The only direction to the first respondent is to consider and pass appropriate order on merits and in accordance with law on the resubmitted application. The petitioner is also directed to resubmit the application within a period of two weeks from the date of receipt of a copy of this order. The petitioner shall also



be given an opportunity of personal hearing before passing such final order. If the first respondent passes favourable order, well and good. But if the first respondent passes an adverse order against the petitioner, the petitioner shall be given breathing time to move the appellate authority. No coercive steps shall be taken in the meanwhile. This writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

21.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PMU

To:

1. The Commissioner,
Tiruchirappalli City Corporation,
Tiruchirappalli.
2. The Assistant Commissioner,
Ponmalai Division,
Tiruchirappalli City Corporation,
Tiruchirappalli.



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5

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G.R.SWAMINATHAN,J.

PMU

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