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W.M.P.No.17333 of 2024
in W.P.No.26759 of 2019

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in
W.P.No.26759 of 2019

S.S. SUNDAR, J.
and
N. SENTHILKUMAR, J.

[Order of the Court was made by **S.S. SUNDAR, J.**]

This petition is filed to recall the order dated 11.01.2024 made in W.P.No.26759 of 2019.

2.The main writ petition was filed by one M.Rajeswari for issuance of a Writ of Mandamus directing the 3rd respondent/Planning Authority to remove the unapproved, unauthorised and illegal construction raised in her land at Plot No.1, Door Nos.33, 35, 33A, 31, bearing R.S.No.304/7/A1, Cadastre No.114, Patta No.232, situated at First Cross Street, Rainbow Nagar, Saram Revenue Village, Pondicherry. This Court, while disposing of the above writ petition by order dated 11.01.2024, issued directions to the 3rd respondent/Planning Authority to consider the planning permit produced by the 5th respondent in the writ petition and the regularisation application submitted by the 6th respondent in the writ petition and thereafter, to take further enforcement action in



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pursuance of the demolition notice dated 16.12.2019.

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3.The petitioner herein is not a party to the above writ petition.

The case of the petitioner herein is that Door No.33 is the exclusive property of the petitioner and a direction is given in the above writ petition for removal of unauthorised occupation, without impleading the petitioner as a party. The petitioner's grievance is that the order dated 11.01.2024 will seriously affect the petitioner who is in continuous possession and enjoyment of a residential flat bearing Door No.33 to a specific extent of 550 sq.ft., by letting out the same to third parties.

4.Learned counsel appearing for the petitioner pointed out that the writ petitioner has approached this Court on the premise that she is the owner of the property in which the development had taken place. Since the writ petitioner has approached this Court without availing the alternative remedy of approaching the Civil Court to establish her title, the *bona fides* of the writ petitioner is also disputed by the petitioner herein.



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5. Even though contentious issues are raised in this application, this Court is of the view that a direction against the petitioner without impleading the petitioner, is improper. For the reason that an order affecting the petitioner is passed without impleading her and without notice to her in the writ petition, the prayer of the petitioner to recall the order in the above writ petition, insofar as the petitioner is concerned, is justified. **Hence, this petition is ordered and the order passed on 11.01.2024 in W.P.No.26759 of 2019 is recalled insofar as Door No.33 is concerned.** The order dated 11.01.2024 in W.P.No.26759 of 2019 shall be read to the effect that the same shall not affect the right of the petitioner in respect of the property bearing Door No.33 in which the petitioner is in possession and enjoyment by letting out to third parties. It is made clear that this order will not stand in the way of respondents proceeding against other private parties, in accordance with law based on the earlier order passed by this Court in W.P.No.26759 of 2019 on 11.01.2024.



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6.Post the main writ petition for hearing after three weeks.

(S.S.S.R., J.) (N.S., J.)
02.07.2024
(1/2)

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