



WEB COPY

W.P.No.30128 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2024

CORAM:

**THE HON'BLE MR.JUSTICE S.S.SUNDAR
and
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR**

**W.P.No.30128 of 2023
and W.M.P.Nos.29757 & 29758 of 2023**

1.V.Balu
2.V.Chandra
3.B.Athmavallinathan
4.A.Aadithiya
...Petitioners

vs.

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

2.The Assistant Director,
District Town and Country Planning,
34, Tamizh Muthu Nagar, Kondur,
Cuddalore – 607 006.

3.The Superintending Engineer,
Tamil Nadu Generation and
Distribution Corporation Limited,
(TANGEDCO), Cuddalore, - 607 001.

*(R3 impleaded as per order dated 24.01.2024 in
W.M.P.No.1194/2024 in W.P.No.30128/2023)*
...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to

<https://www.mhc.tn.gov.in/judis>



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issue a Writ of Certiorarified Mandamus to call for the entire records of the 1st respondent vide impugned notice dated 01.09.2023 vide Ka.V.No.093/CP/20-21/0000750 (Notice No.1) and quash the same as void and illegal and consequentially restrain the respondents from lock and seal the commercial building of the petitioners at Door No.47, Kuttusikurusami Salai, Ward 5, Block 47, T.S.No.1782/2C, Thirupadiripuliyur Village, Cuddalore Town.

For Petitioners : Mr.T.S.Baskaran

For Respondents : Mr.L.P.Murya for R1

Mr.R.Vigneswaran for R2
Government Advocate

R3 – No appearance

ORDER

(Order of the Court was made by S.S.Sundar, J.)

This writ petition is filed for issuance of Writ of Certiorarified Mandamus to quash the impugned order passed by the first respondent dated 01.09.2023 and to restrain the respondents from lock and seal the commercial building of the petitioners at Door No.47, Kuttusikurusami Salai, Ward 5, Block 47, T.S.No.1782/2C, Thirupadiripuliyur Village,



Cuddalore Town.

2.By the impugned order, the first respondent pointed out unauthorized development of building put up by the petitioners after making inspection on 23.08.2023. From the impugned order, it is seen that the following violations are pointed out by the first respondent:

<i>Sl. No.</i>	<i>Planning Parameters</i>	<i>As per approved Plan</i>	<i>Available as on site</i>	<i>Deviations with respect to approved plan</i>	<i>As per TNCDBR 2019</i>	<i>Deviations with respect to TNCDBR 2019</i>
1	Car Parking	113 Nos.	106 Nos.	6%	-	6%
2	Solar Panel	In the open terrace of approved plan 536.84 sq.mt is mentioned (268.42x2) as solar panel area	No solar panel is provided	100%	-	100%
3	Additional Floor	In the open terrace of approved plan only Head Room Floor Area 216.37 sq.mt is approved	In the open terrace area, additional 358.5 sq.mt is constructed and used as dining hall	100%	-	100%
4	Side set back	In the approved plan South East side shown as Existing Building to be Demolished & car parking to be provided	EB Room 123.75 sq.mt (117.15+6.6) is constructed in the car parking area	100%	-	100%

3.With regard to the violation regarding car parking, learned counsel appearing for the petitioners submitted that the reduction of space in the parking area was due to the condition imposed by the



Electricity Board to have the installation of individual meters in the car park area (basement). Similarly, the petitioners sought time to install Solar Panel as required under the Building Regulations. It is the specific contention of the petitioners that there was no additional floor and the violation pointed out in the impugned order only refers to the Head Room in the top floor and the temporary tin shed for dining.

4.Regarding the third violation, it is the contention of the petitioners that the construction of 358.5 sq.mt. shed in the open terrace area is admitted. However, learned counsel for the petitioners submitted that at the time of filing the writ petition they undertook to remove the construction of the shed in the open terrace area. Learned counsel now represents that the entire shed which was put up in the open terrace area measuring to an extent of 358.5 sq.mt. is removed. Similarly, as regards, the violation regarding side setback, the petitioners have given their explanation.

5.From the impugned order, though the petitioner was asked to demolish E.B. installation in the South East side to provide sufficient car parking and to demolish G.I. Sheet Dining Hall which was constructed in an open terrace and to provide Solar Panel, there was no suggestion



complaining that the petitioners have not provided side setback.

6.It is in the said circumstances, this Court is of the view that the impugned order, directing the petitioners to discontinue the use of the building within 30 days need not be insisted in view of the change of circumstances and this Court is inclined to quash the impugned order dated 01.09.2023 passed by the first respondent. However, the first respondent is directed to make a local inspection and find out whether the structure in existence is in violation of any building plan approval.

7.To clarify, the first respondent is directed to give sufficient time to increase the space in the basement for more car parking. The petitioners may also approach the Electricity Department for any concession to shift the existing electricity installation from the basement to any other floor. The possibility of providing sufficient car parking without shifting the electricity installation can also be considered if there is a viable/workable solution.

8.The petitioner may be given three months time to provide Solar Panel as required under the Combined Building Regulations, 2019. The first respondent shall verify and confirm whether the petitioner has removed the entire shed measuring an extent of 358.5 sq.mt. As regards,



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side setback, the impugned order is not specific as to the exact violation and therefore, the first respondent may consider the explanation that may be offered by the petitioners to pass further orders if necessary.

9. With the above directions, this writ petition is disposed of.

No costs. Consequently, connected miscellaneous petitions are closed.

(S.S.S.R.,J.) (N.S.,J.)
11.06.2024

Index: yes/no
Speaking order: yes/no
Neutral Citation: yes/no
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