



W.P(MD)Nos.12609, 22059 & 23923 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.03.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)Nos.12609, 22059 & 23923 of 2023
and
W.M.P(MD)Nos.10651, 18394, 20090, 20093, 20094 & 20097 of
2023**

1.W.P(MD)No.12609 of 2023:

- 1.Indhra
- 2.Varalakshmi
- 3.Vetrivelan
- 4.Guruprasad
- 5.Sri Prasanna
- 6.Selvaganapathy
- 7.Sukumar
- 8.Varatharaajan

... Petitioners

vs.

- 1.The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Housing and Urban Development Department,
Secretariat,
Fort St. George,
Chennai – 600 009.
- 2.The Member Secretary,
Trichy Local Planning Authority,
Kajamalai,
Trichy – 20.

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3.The Commissioner,
Trichy Corporation,
Trichy.

4.The Assistant Commissioner,
K.Abisehagapuram Zone,
Trichy Corporation,
Trichy.

5.The Assistant Director,
Town and Country Planning,
Trichy District,
Trichy.

6.The Superintendent Engineer,
Trichy City Corporation,
Trichy.

7.Sri Balaje Sukhra Housing Developers,
Represented by its Partner P.Suresh.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, forbearing the respondents 1 to 6 from demolishing or lock and seal the petitioners residential flats situated in No.C-64, 4th Cross, Thillai Nagar, Trichy Town, Trichy – 620 018 in Old T.S.No.146/2 and Old Ward No.3, Block No.7 in new T.S.No.60/1, new Ward No.D, Block No.5 measuring for an extent of 0.0275.8 hector in pending disposal of the petitioner's flat regularization Appeal in letter No. 4303037/Na.Va5(1)/2023-1 dated 27.03.2023 on the file of the first respondent.



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For Petitioners

: Mr.T.Vadivelan

For Respondent Nos.1, 2 & 5

: Mr.N.Satheesh Kumar
Additional Government Pleader

For Respondent Nos.3, 4 & 6

: Mr.R.Baskaran
Standing Counsel
for M/s.R.B.Law Associates

2.W.P(MD)No.22059 of 2023:

- 1.Lalitha Sankaran
- 2.Shreedharan
- 3.M.Lakshmanan
- 4.Usharani Sridhar

... Petitioners

vs.

- 1.The Member Secretary/The District Collector,
Town and Country Planning,
Thiruchirappalli District.
- 2.The Commissioner,
Thiruchirappalli City Corporation,
Trichy – 1.
- 3.The Assistant Commissioner,
Srirangam Zone,
Thiruchirappalli City Corporation,
Trichy – 5.
- 4.Sagadevan
- 5.Maheswari
- 6.Sachin Sundar
- 7.Parthasarathy
- 8.Sumathi
- 9.A.Sankaran
- 10.Kungumavalli
- 11.Manikandan

... Respondents

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PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to take appropriate action in removal of illegal and unauthorized constructions in the common area in the Plot Nos.96 & 97 bearing Survey Nos.2352/4 & 2352/2A in Subadra Flats, Sriram Nagar, Thiruvanaikovil, Trichy – 625 005 and cancel the illegal property tax stands in the name of the respondents 3 to 5 herein by considering the representation of the petitioner, dated 07.04.2023.

For Petitioners	: Mr.D.Nallathambi
For Respondent No.1	: Mr.N.Satheesh Kumar Additional Government Pleader
For Respondent Nos.2 & 3	: Mr.R.Baskaran Standing Counsel for M/s.R.B.Law Associates
For Respondent Nos.4 & 5	: Mr.L.G.Sahadevan

3.W.P(MD)No.23923 of 2023:

Lalitha Sankaran

... Petitioner

vs.

- 1.The Member Secretary/The District Collector,
Town and Country Planning,
Thiruchirappalli District.
- 2.The Commissioner,
Thiruchirappalli City Corporation,
Trichy – 1.

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3.The Assistant Commissioner,
Srirangam Zone,
Thiruchirappalli City Corporation,
Trichy – 5.

4.Sagadevan

5.Maheswari

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records of the impugned order passed by the third respondent in his proceedings in Na.Ka.No.F1/3707/2023 dated 15.09.2023 and quash the same as illegal and pass appropriate orders within a time stipulated by this Court.

For Petitioner

: Mr.D.Nallathambi

For Respondent No.1

: Mr.N.Satheesh Kumar
Additional Government Pleader

For Respondent Nos.2 & 3

: Mr.R.Baskaran
Standing Counsel
for M/s.R.B.Law Associates

For Respondent Nos.4 & 5

: Mr.L.G.Sahadevan



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COMMON ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

W.P(MD)No.12609 of 2023 has been filed by the petitioners to forbear the respondents 1 to 6 from demolishing or locking and sealing the petitioners residential flats situated in No.C-64, 4th Cross, Thillai Nagar, Trichy Town, Trichy – 620 018 in Old T.S.No.146/2 and Old Ward No.3, Block No.7 in new T.S.No.60/1, new Ward No.D, Block No.5 measuring for an extent of 0.0275.8 hector in pending disposal of the petitioners' flat regularization Appeal in letter No.4303037/Na.Va5(1)/2023-1 dated 27.03.2023 on the file of the first respondent.

2.W.P(MD)No.22059 of 2023 has been filed by the petitioners to direct the respondents 1 and 2 to take appropriate action for removal of illegal and unauthorized constructions in the common area in the Plot Nos. 96 & 97 bearing Survey Nos.2352/4 & 2352/2A in Subadra Flats, Sriram Nagar, Thiruvanaikovil, Trichy – 625 005 and cancel the illegal property tax stands in the name of the respondents 3 to 5 herein by considering the representation of the petitioner, dated 07.04.2023.



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3.W.P(MD)No.23923 of 2023 has been filed by the petitioner to quash the impugned order passed by the third respondent vide proceedings in Na.Ka.No.F1/3707/2023 dated 15.09.2023, directing him to remove the constructions made contrary to the planning permit granted.

4.The facts of the case in W.P(MD)No.12609 of 2023 are that the petitioners purchased the undivided share of house property from the seventh respondent through a registered sale deed. The building plan approval was approved by the fourth respondent. There were totally 8 residential houses built in the apartment and the petitioners were in possession of the respective flats from the date of construction. Pursuant to the filing of the Writ Petitions by the parties to demolish the unauthorized and illegal construction made by the seventh respondent, the petitioners preferred an appeal before the appellate authority on 27.03.2023 seeking for regularization of their residential flats in the abovesaid property. However, without considering the same, the official respondents are taking steps to demolish or lock and seal the residential building of the petitioners. Hence, the petitioners have filed the Writ Petition.



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5.The facts of the case in W.P(MD)No.22059 of 2023 are that the petitioners purchased the property of undivided share in Plot Nos.96 and 97 under registered sale deed and they are in possession and enjoyment of the subject property. In ground floor, there are four flats namely G1 to G4 and in first floor, there are four flats as F1 to F4 in the said apartment. In the said apartment the entire stilt floor is intended to be parking slot and for a common use by all the approved owners of the flats in the said apartment. The above common area has to be vested with approved owners of flats and in the building plan approval, it is shown as vacant area. The respondents 4 and 5 had illegally converted the common area as their own property and they have also built illegal construction without building approval of the Corporation. The conversion of common area and subsequent illegal construction by the fourth respondent is against the building rules and regulations. The unlawful construction obstructs petitioners from approaching the borewell and also making any repairs and other maintenance work of the main flat building. The parking area is also blocked and the petitioners are prevented from parking in the common area. The common area and gates as approved are not accessible to the petitioners from using the common area, parking lot and gates. The



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respondents 4 and 5 have claimed and locked out 5 out of 6 gates. They claim this as exclusive property. Only one gate is given access and lift is locked out by the respondents 4 and 5 and though they got permit and construction agreement including the parking area, the respondents 4 and 5 preventing the petitioners to park their own vehicles and they are illegally demanding exorbitant money to get the same. All the above said illegal action of the respondents 4 and 5 are brought to the knowledge of the competent authorities to take appropriate legal action by a representation, dated 08.04.2023. But there is no action on the part of the competent authorities to remove the encroachment and illegal construction made by the respondents 4 and 5. Hence, the petitioners filed a suit as against the respondents 4 and 5 in O.S.No.722 of 2019 on the file of the Principal Sub Court, Trichy and filed a petition in I.A.No.4 of 2023 to withdraw the civil suit with liberty. Narrating all these facts, the petitioners sent a representation, dated 08.04.2023 to the authorities concerned. Since the same has not been considered, the petitioner has filed the Writ Petition.

6.In the meantime, pursuant to the order passed by this Court in W.P(MD)No.22059 of 2023, the third respondent vide proceedings dated 15.09.2023 issued a notice under Section 56(1) of the Tamil Nadu Town and



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Country Planning act, 1971 to take appropriate action for removing the deviated construction put up by the original owners to the first petitioner. Challenging the same, the petitioner/Lalitha Sankaran has filed W.P(MD)No. 23923 of 2023.

7.When the matter was taken up for hearing today, the learned counsel appearing for the respondents 4 and 5 in W.P(MD)Nos.22059 and 23923 of 2023 would submit that the violations, as pointed out by the respondent Corporation, have been rectified and it is submitted that after conducting a fresh inspection, the authority concerned may take necessary action for removal of the unauthorized construction or deviation in accordance with law.

8.The learned counsel appearing for the petitioners also submitted that in such circumstances, opportunity shall also be granted to the petitioners.



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9.Considering the submissions made on either side, this Court is inclined to pass the following order:

(i) The petitioners and the private respondents are directed to submit their documents before the authority concerned within a period of two weeks from the date of receipt of a copy of this order.

(ii) Thereafter, the respondent Corporation is directed to consider the documents produced by the parties concerned and inspect the building in question in the presence of the petitioners as well as private respondents.

(iii) During inspection, if it is found that there is any violation or deviation in the building, the authority concerned shall take necessary action for removal of the same in accordance with law, after providing due opportunity to the parties concerned.

(iv) The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.



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10.With the above directions, these Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K.,J.] [R.V.,J.]
18.03.2024
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NCC : Yes / No
Index : Yes / No
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- 1.The Principal Secretary to Government,
Housing and Urban Development Department,
Secretariat, Fort St. George,
Chennai – 600 009.
- 2.The Member Secretary,
Trichy Local Planning Authority,
Kajamalai, Trichy – 20.
- 3.The Commissioner,
Trichy Corporation,
Trichy.
- 4.The Assistant Commissioner,
K.Abisehagapuram Zone,
Trichy Corporation, Trichy.
- 5.The Assistant Director,
Town and Country Planning,
Trichy District, Trichy.
- 6.The Superintendent Engineer,
Trichy City Corporation,
Trichy.
- 7.The Member Secretary/The District Collector,
Town and Country Planning,
Thiruchirappalli District.
- 8.The Commissioner,
Thiruchirappalli City Corporation,
Trichy – 1.
- 9.The Assistant Commissioner,
Srirangam Zone,
Thiruchirappalli City Corporation,
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D. KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

ps

ORDER MADE IN
W.P(MD)Nos.12609, 22059 & 23923 of 2023

DATED : 18.03.2024
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