



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-04-2025

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**THE HONOURABLE MR. JUSTICE S. M. SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR**

WP No. 4818 of 2025

1. L.Muruganantham
S/o. R. Lingasamy (late), 1/16, Muthu
Nagar, Kotapulipalayam Road,
Dharapuram,
Tiruppur District -638 657.

Petitioner(s)

Vs

1. The State of Tamil Nadu
Principal Secretary To Government,
Housing and Urban Development
Department, Secretariat, Fort St.
George, Chennai -600 009.

2.The State of Tamil Nadu
The Secretary To Government, School
Education Department, Secretariat,
Chennai -600 009.

3.The Director of Town And Country
Planning
Directorate of Town And Country



Planning, Opposite to LIC
Chengalvarayan Building, Fourth
Floor, 807, Anna Salai,
Chennai 600 002.

4. Director of School Education
Directorate of School Education, DPI
Complex College Road,
Chennai - 600 006.

5. The Deputy Director of Town
and Country Planning Salem Region,
6, Sannathi Street, Subramani Nagar,
Salem -636 005.

6. Assistant Director, District Town And
Country Planning Office
1st Floor, Kumaran Commercial
Complex, Tiruppur -641 601

7. The Commissioner
Dharapuram Municipality, Dharapuram,
Tiruppur District- 638 656.

8. R. Dhandpani
S/o. Ramasamy Gounder, 55, Kannan
Nagar, Dharapuram,
Tiruppur District 638 656.

9. D. Karthikeyan
S/o. Dhandapani, 55, Kannan Nagar,
Dharapuram,
Tiruppur District -638656.

Respondent(s)



Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus to direct the 1st respondent, 3rd respondent, 5th respondent, 6th respondent and 7th respondent to initiate appropriate action to demolish the unauthorized construction in TS.Nos.21/1A and 21/1B1 of Ward 7 Block 7 of Dharapuram Town in Tiruppur District and restore the building to the original approved plan within a stipulated time frame.

For Petitioner : Mr.L.Muruganantham (P-in-P)

For Respondent(s): Mrs.E.Ranganayaki,
Additional Government Pleader
For RR1 to 6

Mr.P.Srinivas, Standing Counsel
For R7

Mr.S.Parthasarathy,
Senior Counsel
For Mr.P.Dinesh Kumar
For R8

Mr.K.Selvaraj For R9

ORDER

(Order of the Court was made by S.M.Subramaniam J.)

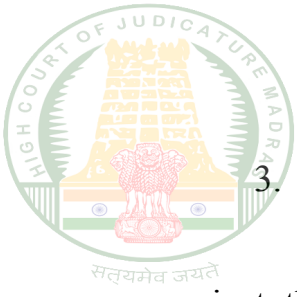
The writ of mandamus has been instituted to direct the respondents 1, 3, 5, 6 and 7 to initiate appropriate action to demolish the unauthorized construction in T.S. Nos.21/1A and 21/1B1 of Ward 7 Block 7 of Dharapuram



Town in Tiruppur District and restore the building to the original approved plan within a stipulated time.

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2. The petitioner states that building plan approval was granted on 31.03.2011, for construction of a building in S.F.No.372/2A, 373/1A belonging to T.S.No.21/1A, 20/19B of Dharapuram Municipality. The respondents No.8 and 9 constructed buildings unauthorizedly in violation of the building plan permission and deviated the approved plan. Thus, the petitioner made a complaint for initiation of action and to demolish the unauthorized constructions. The 8th respondent who constructed building unauthorizedly, filed W.P.No.12952 of 2015 seeking a direction to dispose of the Statutory Appeal filed under Section 80 of the Tamil Nadu Town and Country Planning Act and the Division Bench passed final orders on 28.04.2015 to dispose of the revision filed by the 8th respondent. The Government disposed of the appeal vide letter dated 15.07.2015, however, since then, there was no enforcement action initiated under the provisions of the Tamil Nadu Town and Country Planning Act nor Lock and Seal Notice was issued against which, the Statutory Appeal is entertainable.



3. With reference to the allegations of unauthorized construction made against the respondents No.8 and 9, the 6th respondent, Assistant Director, District Town and Country Planning Office filed a counter affidavit stating that the unauthorized constructions are identified. The 8th respondent submitted an application through single window portal application on 27.02.2025 requesting for revised approval for existing school building. During the course of inspection, the authorities found that there is deviation in set back parameters and class rooms size. Thus, the application was returned and refused on 07.03.2025.

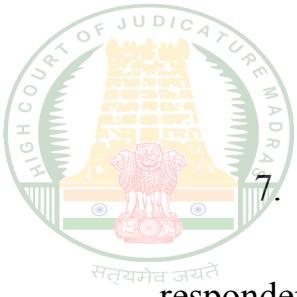
4. This Court is of the considered opinion that appeal against Section 79 of the Tamil Nadu Town and Country Planning Act is not maintainable to issue a revised plan in respect of an unauthorized construction already made. Section 79 of the Tamil Nadu Town and Country Planning Act, appeal is entertainable, if any person aggrieved by any decision or order of a planning authority under Section 49 or Sub-section (1) of Section 54 of the Act may appeal to an authority as prescribed.



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5. Holistic reading of Section 79 of the Tamil Nadu Town and Country Planning Act in entirety would amplify that the appeal is relatable to an application submitted seeking building plan permission under Section 49 of the Act, or sub-Section (1) to Section 54 which enumerates that “if it appears to an appropriate planning authority that it is expedient, having regard to the development plan prepared, that permission for any development granted under this Act or any other law, should be revoked or modified, the said planning authority may, after giving the person concerned an opportunity of being heard against such revocation or modification, by order, revoke or modify the permission to such an extent as may be necessary”.

6. Therefore, an appeal under Section 79 of the Act is not entertainable to regularize the unauthorized construction already made by seeking a revised plan approval or modification of the building plan permission already granted based on which, the constructions were made already. Only in the event of issuing a Lock and Seal Notice, a revision alone would lie before the Government under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971.



7. The 6th respondent conducted inspection and found that the respondents No.8 and 9 constructed building unauthorizedly and that being the factum, the enforcement actions must be continued.

8. The learned Senior Counsel Mr.Parthasarathy would submit that the subject property is a school and the students are studying. The current academic year is yet to be completed and examinations are going on. Therefore, an opportunity may be granted to the respondents No.8 and 9, till the completion of academic year.

9. The fact regarding unauthorized construction identified by the authorities is unable to be disproved by the respondents No.8 and 9. Thus, the enforcement action under the Act is inevitable. However, this Court is of the considered opinion that the education of the students studying in the school is to be taken care of. Thus, the demolition of the unauthorized construction to be made only during the month of May and it must be completed before commencement of next academic year.



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10. In view of the facts and circumstances, the respondents No.5, 6 and 7 are directed to complete the process and demolish the unauthorized construction during the month of May 2025 and complete the enforcement action before commencement of the next academic year by restoring the building in accordance with the building plan approval.

11. With the above directions, the writ petition stands disposed of. There shall be no order as to costs.

(S.M.SUBRAMANIAM J.) (K.RAJASEKAR J.)

02-04-2025

ssi

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To:

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Principal Secretary To Government, Housing
and Urban Development Department,

Secretariat, Fort St. George, Chennai -600 009.



2. The State of Tamil Nadu

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