



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2025

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

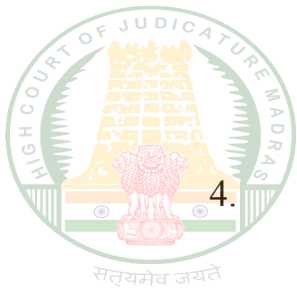
W.P.No.5475 of 2025
and
W.M.P.Nos.6026 & 6027 of 2025

D.Sasikala

... Petitioner

Vs.

1. The Additional Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai - 600 009.
2. The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai - 600 003.
3. The Executive Engineer,
(Enforcement - Region Central),
Zone - 7,
Corporation of Chennai,
Regional Office Central,
2nd Cross Street (East),
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.



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4. The Assistant Executive Engineer,
T.P.(Enforcement),
Corporation of Chennai,
Division - 88, Unit -19, Zone -7,
Ambattur, Chennai - 53.
5. The Executive Officer,
Arulmigu Thiruvalléeswarar Thiru Kovil,
Padi, Chennai - 600 050.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, seeking for an issuance of writ of certiorarified mandamus, to call for the records connected with the government letter No.5710972/UD-VII(2)/2023-4 dated 12.09.2024 passed by the first respondent and Notice No.ZONE-7/DIVISION-88/TPENF/2025 dated 21.01.2025 passed by the 3rd respondent and quash the same and consequently direct the respondents not to take any coercive steps and allow the petitioner to continue the tenancy.

For Petitioner	: Mr.S.Illamvaludhi
For Respondents	: Mr.T.Chandrasekaran Special Government Pleader [For R1] : Mr.E.C.Ramesh, Standing Counsel for GCC [For R2 to R4] : Mr.N.R.R.Arun Natarajan Special Government Pleader [For R5]



ORDER

(Order of the Court was made by the Hon'ble **S.M.SUBRAMANIAM, J.**)

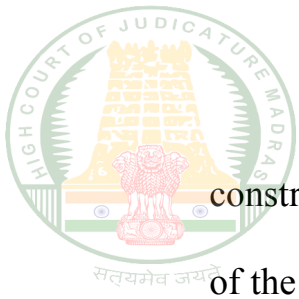
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The *lis* on hand has been instituted challenging the Revision Order passed by the Government in proceedings dated 12.09.2024 under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 (hereinafter referred to as "the Act") and the consequential De-occupation Notice dated 21.01.2025, issued by the Greater Chennai Corporation

2. The petitioner states that she is in possession of the subject property as described in the writ proceedings.

3. Admittedly, the subject property belongs to Arulmighu Thiruvalléeswarar Thirukovil, Padi, Chennai. The house existed was in dilapidated condition and she has constructed a small house. However, the petitioner admits that no Building Plan Permission has been obtained from Chennai Corporation for construction of a house.

4. Mr.S.Illamvaludhi, the learned Counsel appearing on behalf of the petitioner would submit that the petitioner is a daily wage employee and constructed a small house for her residence. Therefore, the same need not be



construed as unauthorised construction. It is further contended that the extent of the land is below 300 sq.ft. Therefore, no permission is required.

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5. Mr.N.R.R.Arun Natarajan, the learned Special Government Pleader appearing on behalf of the HR & CE Department would submit that the petitioner is not at all a lessee of the temple. One Mrs.Malliga was the tenant and she died on 20.05.2015. Thereafter, the temple has not leased out in favour of the petitioner and she become the subsequent occupier of the temple property.

6. The Greater Chennai Corporation issued a hearing notice for personal hearing *vide* proceedings dated 30.08.2023. Locking and Sealing and Demolition notice dated 05.09.2019 was issued. The process of enquiry was conducted by Chennai Corporation and the temple Authorities participated. The Corporation found that the petitioner has not obtained any Building Plan Permission and the subject building is wholly unathorised. The temple Authorities established that they have not leased out the property in favour of the petitioner and she is the subsequent occupier, occupied the property after the death of the original lessee late Mrs.Malliga.



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7. The petitioner preferred a revision before the Government under Section 80-A of the Act. The Government conducted an enquiry by affording opportunity to all the parties. The impugned Government Order dated 12.09.2024 reveals that the writ petitioner earlier filed W.P.No.3343 of 2024 and the same is pending. The Government filed a status report in the said writ petition. Meanwhile, Arulmigu Thiruvalleeswarar Thirukovil represented by its Executive Officer filed W.P.No.23263 of 2019 to initiate action against the unauthorised construction put up by the writ petitioner. The Division Bench of this Court passed orders on 21.06.2023 as under:

"5. Therefore, we direct the respondents 1 and 2/Corporation of Chennai / its concerned officials, to take necessary action for removal of the unauthorised construction in the property in question, after giving an opportunity of hearing to the petitioner - Temple through its Executive Officer, respondents 3 and 4 and any person aggrieved, if any, within a period of 12 weeks from the date of receipt of a copy of this order.

6. With the above observations/directions, the Writ Petition is disposed of. There shall be no order as to costs. Consequently, W.M.P. is closed."

8. The Government provided personal hearing to the revision petitioner/writ petitioner. The facts placed before the Government by the



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parties and the grounds raised are elaborately considered. The Government dismissed the revision petition filed by the petitioner mainly on the ground that the petitioner is not the owner of the land, which belongs to the temple and the petitioner has put up construction unauthorisedly without obtaining Building Plan Permission from the Chennai Corporation. Consequently, the Government directed the Greater Chennai Corporation Authorities to proceed and to take all necessary action under the Tamil Nadu Town and Country Planning Act 1971 or under appropriate Act and Provisions. In pursuance to the impugned Government Order dated 12.09.2024, De-occupation notice was issued by the Greater Chennai Corporation in proceedings dated 21.01.2025. Challenging the Government Order and the consequential order, the present writ petition has been instituted.

9. The learned Counsel for the petitioner would mainly contend that several other persons in that locality are in occupation of the temple property and constructed unauthorised buildings, including massive commercial buildings and no action has been taken either by the Corporation Authorities or by the Temple Authorities. The poor petitioner, who is a daily wage employee alone was discriminated and actions were initiated.



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Therefore, the discrimination caused to the petitioner is also to be considered by this Court. More-so, the petitioner contends that the land under occupation of the petitioner is less than 300 sq.ft and no building permission is required.

10. The learned Standing Counsel for the Corporation would submit that any construction proposed in a land measuring above 150 sq.ft, require Building Plan Permission from the Corporation.

11. The learned Special Government Pleader appearing on behalf of the HR & CE Department would submit that the petitioner has erroneously stated that the land under occupation is below 300 sq.ft, but even in the writ petition in W.P.No.23263 of 2019 filed by the the Temple has stated that the petitioner is in occupation of land measuring 1100 sq.ft comprised in Survey No.295, bearing Door No.133, Jawahar Street, Devar Nagar, Padi, Chennai - 600 050.

12. This Court made it clear that extent of land under occupation is to be ascertained by the Temple Authorities and the Corporation Authorities. If the statement of the petitioner is found to be wrong or the extent stated by



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the Authorities are incorrect, survey should be conducted and the extent of occupation by the petitioner and the building constructed are to be dealt with in accordance with law.

13. The Temple in the writ petition in W.P.No.23263 of 2019 has stated that the land is measuring 1100 sq.ft and the building constructed may be lesser than that as specified in the impugned De-occupation Notice as well as in the Revision Order passed by the Government.

14. This court is of the considered opinion that all the grounds with reference to the provisions of the Act and Rules were elaborately considered by the Government in the Revision Order, which is impugned in the present writ proceedings. Admittedly, the petitioner is not a lessee of the temple. She is the subsequent occupier. Therefore, she has no right to claim right over the property. The Corporation Authorities have found that the building constructed is wholly unauthorised. Therefore, the building is liable to be demolished under the provisions of the Act. De-occupation notice was issued. With reference to the contention of the petitioner that she alone has been discriminated, the HR & CE Department and the Greater Chennai



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Corporation are expected to act in tandem and find out the unauthorised occupants and encroachers of the temple property and the unauthorised constructions in the temple property and initiate all appropriate actions to ensure that the temple properties are recovered and utilised for the purpose for which it was donated by the donors to the temple and deal with those properties as per the wishes of the donors and in accordance with the provisions of the H.R. & C.E. Act.

15. Since, the Government has considered all the grounds and found that the petitioner has not established even a semblance of legal right on the property and the building constructed is also found wholly unauthorised, the petitioner is not entitled for the relief.

16. Writ petition after writ petition have been instituted either by the unauthorised occupants or by the temple but the issues are not resolved for longtime. Such a situation if continued, it will erode the trust on the system. Therefore, the Authorities are expected to act strictly to ensure that the law in force are implemented in its letter and spirit. In the event of prolonged delay in execution of orders, it would embolden violators and the person



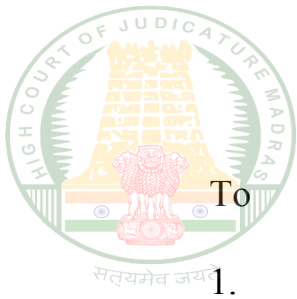
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committing illegalities to repeat the offence with an idea that they can escape from the clutches of legal clamps. Therefore, the unauthorised building is directed to be demolished within a period of four (4) weeks from the date of receipt of a copy of this Order.

Accordingly, the Writ Petition stands **dismissed**. No costs.
Consequently, connected miscellaneous petitions, if any, are closed.

[S.M.S,J.] [K.R.S,J.]
19.02.2025

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Index: Yes/No
Speaking order/Non-speaking order
Neutral Citation: Yes/No



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W.P.No.5475 of 2017



- To
1. The Additional Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai - 600 009.
 2. The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai - 600 003.
 3. The Executive Engineer,
(Enforcement - Region Central),
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