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WP No. 17926 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 28-04-2025**

CORAM

**THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM**

**AND**

**THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**WP No. 17926 of 2024**

**and**

**WMP.Nos.19661, 19664 & 19665 of 2024**

R.Latha

Petitioner(s)

Vs

1. The Secretary to the Government,  
Tamilnadu Housing And Urban  
Development Department,  
Secretariat, Fort St. George, Chennai-9.

2.The Commissioner,  
Poonamallee Municipality, Poonamallee,  
Chennai-600 056.

3.R.Suresh  
[R3 impleaded vide Court order dated  
28.04.2025 in WMP.No.22687 of 2024  
in W.P.No.17926 of 2024 by SMSJ &  
KRSJ]

Respondent(s)



**PRAYER** Writ Petition filed under Article 226 of the Constitution of India, seeking for an issuance of writ of Certiorarified Mandamus, to Call for the records pertaining to Letter No.5411728/ UD VI (3)/ 2023-4 dated 29.11.2023 and Letter No.6523065/ UD 6(3)/ 2023-1 dated 05.04.2024 passed by the first respondent and quash the same as illegal and consequently directing the second respondent to de-seal the premise situated at No.70/76, Avadi Road, Karayanchavadi, Poonamallee, Chennai-600 056.

For Petitioner(s): Mr.Manoj Sreevalsan

For Respondent(s): Mrs.E.Ranganayaki  
Additional Government Pleader for R1

Mr.M.Ravi Bharathi for R3

**ORDER**

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

The Revision order of the Government vide letter dated 29.11.2023 and the Review order of the Government dated 05.04.2024 are sought to be assailed in the present writ proceedings.

2. The petitioner states that the subject property belonged to her father late Mr.A.C.Rayar Padayachi and presently, the petitioner is in possession of the said property.



Complaints were received by the Official respondents that the petitioner has constructed the building unauthorisedly without Building Plan Permission. Thus, the Commissioner, Poonamallee Municipality conducted an inspection and survey and identified the unauthorised construction made by the petitioner and initiated enforcement actions under the provisions of the Town and Country Planning Act. Lock and Seal notice was issued. Challenging the said notice, the petitioner preferred a revision under Section 80-A of the Town and Country Planning Act. The Government elaborately considered the facts and the documents by affording opportunity to all the parties and made a finding as under:

*"6. Accordingly, final hearing was conducted on 31.10.2023. The revision petitioner and the official from Poonamallee Municipality were present.*

*(i) The official informed that there is a dispute on the land on which the petitioner gains access to his property. The objector one Thiru.R.Suresh who is a relative of the petitioner claims ownership of the said passage and had filed writ in W.P.No.26402 of 2022 and the Hon'ble High Court of Madras had directed Poonamallee Municipality to take action under Tamil Nadu Town and Country Planning Act, 1971.*



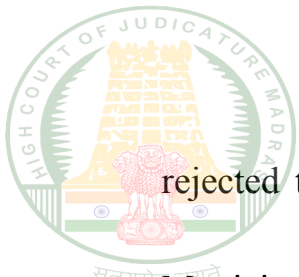
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*The petitioner's building comprising Ground Floor + 3 floors was locked and sealed on 14.08.2023. As per the direction of the Government the said building was de-sealed on 06.10.2023 for removal of the belongings of the revision petitioner and it was resealed on 16.10.2023 by Poonamallee Municipality.*

*(ii) The revision petitioner informed that their plot extent is originally 1240 sq.ft belonged to her father. Subsequently her father, executed a will during 2013 bequeathing 320 sq.ft out of 1240 sq.ft in the said property to her. Her property gain access only through the said passage. Hence, suit was filed in O.S.No.182/2023 which is pending before the Poonamallee Sub - Court.*

7. *It is observed that the petitioner has put up Ground Floor + 3 Floors Building unauthorisedly. She do not have patta in her favour. The land was settled by her father through family settlement. The passage through which the petitioner gains access to the property from the road is under dispute. Hence obtaining approval for the petitioner's building may not be possible without patta in her favour."*

4. The petitioner filed a review petition before the Government, which is not maintainable under the provisions of Town and Country Planning Act. Still the Government again considered the review petition on merits and



rejected the same. A direction was issued to the Commissioner, Poonamallee

Municipality to pursue the enforcement actions, accordingly. Thus, the present

writ petition came to be instituted.

5. The learned Counsel for the petitioner would mainly contend that the Building Plan Permission was obtained by the father of the petitioner in the year 1984.

6. Pertinently, no such permission has been produced either before the Government or before this Court in the present writ proceedings. Several opportunities were provided by the competent Authorities to initiate enforcement action and the revision petition also has been decided by the Government by elaborately adjudicating the issues on merits. Therefore, now the petitioner cannot plead that they possess Building Plan Permission in the absence of any proof to establish the same.



7. By producing the photographs, the learned Counsel for the third respondent would submit that the petitioner has encroached upon the common passage and constructed building unauthorisedly without securing any Building Plan Permission. Thus, the Building is 'wholly unauthorised'. Regarding the dispute, a civil suit is also pending between the private parties in O.S.No.182 of 2023.

8. May that as it be, the civil rights are to be established between the parties before the competent civil Court of law. As far as the unauthorised buildings are concerned, the enforcement actions initiated is in accordance with the provisions of Town and Country Planning Act. The Government also elaborately considered the issues and made a categorical finding that the building is 'wholly unauthorised'.

9. That being so, there is no reason to interfere with the orders impugned. The respondents 1 and 2 are directed to continue the enforcement actions as per the Government orders and demolish the unauthorised



constructions within a period of four weeks from the date of receipt of a copy of the order.

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

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

**28-04-2025**

(2/2)

veda

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

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Tamilnadu Housing And Urban  
Development Department, Secretariat,  
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