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W.P.No. 32077 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2025

CORAM :
THE HON'BLE MR. JUSTICE M. SUNDAR
and
THE HON'BLE MR. JUSTICE R. SAKTHIVEL

W.P. No.32077 of 2023
W.M.P. No.31660 of 2023 (Stay Petition)
W.M.P. No.36030 of 2024 (Implead Petition) and
W.M.P. No.33238 of 2024 (Direction Petition)

1. Amala Merry Church
represented by its Parish Priest
Vayalur Kootrodu Bus Stop
R.N. Kandigai Village, Uthiramerur Taluk
Kancheepuram District 603 402

2. Diocese of Chingleput Society
represented by its Property Administrator
Catholic Bishop House
Kancheepuram Road
Thimmavaram
Chengalpattu 603 101

Petitioners

vs.

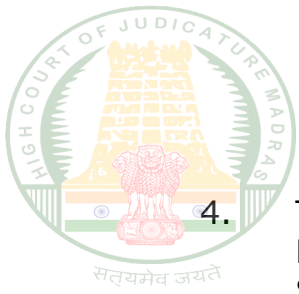
1. The Assistant Director/Deputy Director (I/c)
Office of District Town and Country Planning
Kancheepuram District 631 501

2. Catholic Fraternity Awakening Society
represented by its Secretary R. Francis Ambrose
No.3, Kumarapuram
Chromepet, Pallavaram Taluk
Chengalpattu District 600 044

(R2 impleaded as per order dated 01.04.2024 in
W.M.P.No.6472 of 2024 in W.P.No.32077 of 2023)

3. The District Collector
Kanchipuram District

(R3 impleaded as per order dated 04.07.2024 in
W.M.P.No.17913/2024 in W.P.No.32077 of 2023)



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4.

The Secretary to Government
Housing and Urban Development Department
Secretariat
Fort St. George
Chennai - 600 009
(R4 impleaded by Court *suo motu* today)

Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the respondent dated 16.10.2023 in Na.Ka.1602/2023-Ka.Ma.2 on its file, quash the same and direct the respondent to grant approval for constructions at Survey No.171A/1B of R.N. Kandigai Village, Uthiramerur Taluk, Kanchipuram District as per the provisions of the Tamil Nadu Town and Country Planning Act, 1971, as per the petitioners' online application *vide* No.SWP/BPA/0043729/2023 dated 17.10.2023.

For petitioners	Ms. Hema Sampath Sr. Counsel for Ms. B. Louis Sharmila
For RR 1 & 3	Mr. T.K. Saravanan Addl. Govt. Pleader
For R2	Dr. G. Babu
For petitioner in WMP No.36030 of 2023	No appearance

ORDER

(made by M. SUNDAR, J.)

Captioned main 'writ petition' [hereinafter 'WP' for the sake of brevity] has been filed with a prayer for issue of a writ of certiorarified mandamus.



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2. As regards the certiorari limb, a 'communication/order signed by R1 (Assistant Director/Deputy Director {I/c}, Office of District Town and Country Planning) on 16.10.2023 bearing reference Na.Ka.1602/2023-Ka.Ma.2' [hereinafter 'impugned order' for the sake of convenience and clarity] has been called in question. In and *vide* the mandamus limb, a prayer has been made seeking a direction to the respondent concerned to grant approval *qua* writ petitioners' online application on 17.10.2023 bearing reference No.SWP/BPA/0043729/2023.

3. Ms. Hema Sampath, learned Senior Counsel appearing on behalf of Ms. B. Louis Sharmila, learned counsel on record for writ petitioners, Mr. T.K. Shanmugam, learned Additional Government Pleader for RR 1 and 3 and Dr. G. Babu, learned counsel for R2 (private respondent) are before us.

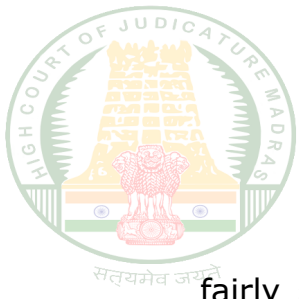
4. 'Lands comprised in S.Nos.171A/1A2, 171A/1B, 173/2A1, 172/1A, 177/1C, 177/1D, 177/3B1 and 177/3B2 in R.N. Kandigai Village, Uthiramerur Taluk, Kancheepuram District admeasuring 4.08 acres or thereabouts' shall hereinafter be referred to as 'said lands' for the sake of convenience and clarity. Superstructure on said lands put up by writ petitioners is the subject matter of captioned main WP



and the same shall hereinafter be referred to as 'said construction'.

Concededly, said construction has been put up without obtaining permission/sanction. This resulted in impugned order being issued by R1 *inter alia* under Sections 56 and 57 of 'the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972)' [hereinafter 'TCP Act' for the sake of brevity] and *vide* TCP Act, the writ petitioners have *inter alia* been called upon to vacate the said construction and the writ petitioners have also been put on notice *qua* lock and seal. The very next day, *i.e.*, on 17.10.2023, the writ petitioners have made an online building plan application and the same is pending before the Secretary, Housing and Urban Development Department, Fort St. George, Chennai – 600 009. To be noted, the mandamus limb of the prayer adverted to *supra* pertains to this online building plan application.

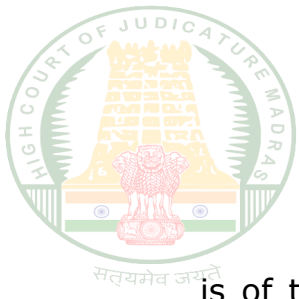
5. Learned Senior Counsel for writ petitioners made some submissions regarding the alleged circumstances which led to putting up of said construction which were vehemently disputed by Dr.G.Babu, learned counsel for R2. We refrain from embarking upon adjudication *qua* said disputations/contestations, leave open all questions in this regard as we are of the considered view that it would be outside the legal perimeter of the captioned main WP.



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6. Reverting to the certiorari limb of the prayer, it is very fairly submitted by learned Senior Counsel for writ petitioners that the writ petitioners have sought revision of the impugned order of R1 *vide* a statutory revision under Section 80-A of the TCP Act captioned 'Special powers of Government' which is described as 'further special revision' by learned State counsel. This statutory revision under Section 80-A of the TCP Act is dated 15.12.2023 and learned State counsel confirms that it is under active consideration of the revisional authority, *viz.*, The Secretary to Government, Housing and Urban Development Department, Secretariat, Fort St. George, Chennai - 600 009. Therefore, we *suo motu* implead the revisional authority as R4 and Mr. T.K. Saravanan, learned Additional Government Pleader, accepts notice for newly impleaded R4 also.

7. As there is no disputation or disagreement before this Court that alternative remedy is effective and efficacious as the same has admittedly been availed and as the same is under active consideration of the revisional authority, we deem it appropriate to give a closure to the certiorari limb of the prayer by writing that the statutory revision, now pending before R4, shall proceed on its own merits and in accordance with law untrammelled by this order and it shall be given a conclusion as expeditiously as the official business of R4 permits.



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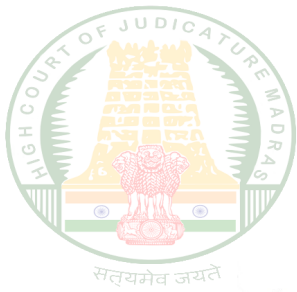
8. As regards the mandamus limb of the prayer, this Court is of the considered view that there cannot be a mandamus to the authority concerned to 'grant' approval. Therefore, the mandamus limb of the prayer is not acceded to but it is made clear that it is open to the authority concerned to consider the online building plan application on its own merits and in accordance with law. In this regard, we are informed that considering the nature of said construction, a No Objection Certificate (NOC) from R3 is imperative *vide* serial no.(6) of Annexure XVII of 'the Tamil Nadu Combined Development and Building Rules, 2019' [hereinafter 'said Rules' for the sake of brevity], a scanned reproduction of which is as follows:

(6) Construction of religious buildings :

The competent authority shall not entertain any building application for construction of buildings in relation to any religious institution unless such application is accompanied with a No Objection Certificate obtained from the District Collector concerned.

Explanation .— For the purpose of this rule, the religious institution shall mean any temple, mutt, mosque, church or any other place of worship, which is dedicated for the benefit of or used as of right, by the public as a place of religious worship.

9. The aforementioned Annexure XVII of the said Rules is traceable to Rule 9 of said Rules, a scanned version of which is as follows:



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9. Inspection.— (1) General Requirements.— (a) Generally all development works for which permission is required shall be subject to inspection by the competent authority or an official nominated by the competent authority, as deemed fit, before issue of permission and also during construction.

(b) The competent authority may cause inspection for such developments where its risk assessment deems it fit for inspection. In all cases inspection shall be carried out by professionals to be empanelled by the

competent authorities. The qualifications and other conditions for empanelment of professionals for carrying out inspection shall be prescribed by the Government from time to time.

(c) A single joint site inspection shall be carried out by all the concerned authorities for issue of planning permit or building permit or completion certificate)

(d) The applicant shall permit authorized officers of the competent authority to enter the site at any reasonable time for inspection for the purpose of enforcing these rules.

(e) The applicant shall keep a copy of the approved plan at the premises where the development is permitted to be carried out.

(f) Before commencement of the building work at site for which building permission has been granted, the owner shall within the validity period of Building Permission give notice to the Authority, of his intention to start the work at the building site in Form 2 in Annexure - XIV.

(2) During Progress of Construction.—Minimum Stages for recording progress, checking and issuing continuance certificate (For non High Rise Buildings above 12.0 m in height)

(i) Plinth,

(ii) Last storey.

(b) At each of the above stages, the owner or developer through the Registered Architect or Registered Engineer shall submit to the designated officer of the competent authority a progress certificate in Form 3 and 4 in Annexure - XIV and the structural Inspection Report in Form 9 in Annexure - XIV. This progress certificate shall be signed also by the Registered Architect or Registered Engineer on record, Construction Engineer on record and structural engineer on record. The Structural Inspection Report shall be signed by the Registered Structural Engineer on record.

(c) On receipt of the progress certificate from the owner or registered developer, through the Registered Architect or Registered Engineer it shall be the duty of the competent authority, to check any deviation from the approved plan and convey decision within 15 working days to the owner or developer for compliance.



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10. This Court is informed that R3 has already been approached by the writ petitioners with a request for NOC. Therefore, we make it clear that it is open to R3 to consider the writ petitioners' request for issue of NOC on its own merits and in accordance with law. We make it clear that we have not expressed any view or opinion on the merits of the matter.

11. Captioned main WP stands disposed of in the aforesaid manner. Consequently, connected W.M.P. No.31660 of 2023 (stay petition) stands disposed of as closed. There shall be no order as to costs.

12. As regards captioned W.M.P.No.36030 of 2024 (Implead Petition), there was no representation for the implead petitioner in the previous listing on 20.06.2025. Today also, there is no representation though the captioned matter is listed under the cause list caption 'FOR DISMISSAL'.

13. Be that as it may, in the light of the manner in which we have disposed of the certiorari and mandamus limbs of the prayer in the captioned main WP, we are of the considered view that it will serve ends of justice to give a closure to implead WMP by writing that the same is disposed of as closed without expressing any view or



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opinion one way or the other about the implead prayer and making it clear that rights and contentions (if any) of implead petitioner will stand preserved untrammelled by this order.

14. As regards W.M.P.No.33238 of 2024 (Direction Petition), the same has been taken out by R2 in the captioned main WP. In the light of the manner in which we are disposing of the captioned main WP, W.M.P. No.33238 of 2024 is also disposed of as closed, albeit by preserving all the rights and contentions of WMP petitioner (R2 in the captioned main WP) for being canvassed in any appropriate forum.

(M.S.,J.) (R.S.V.,J.)
23.06.2025

cad
Index : Yes/No
NC : Yes/No



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W.P.No. 32077 of 2023



M. SUNDAR, J.

and

R. SAKTHIVEL, J.

cad

To

1. The Assistant Director/Deputy Director (I/c)
Office of District Town and Country Planning
Kancheepuram District 631 501
2. The District Collector
Kanchipuram District
3. The Secretary to Government
Housing & Urban Development Department
Fort St. George
Chennai 600 009

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