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W.P.No.35220 of 2019 and W.M.P. Nos.36015 & 36017 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2025

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.35220 of 2019 and W.M.P. Nos.36015 & 36017 of 2019

Akila Begum

Petitioner

Vs.

1. The Additional Secretary (Technical)
Housing & Urban Development
III Floor, Secretariat
Fort St. George
Chennai 600 009
2. The Commissioner
Director of Town and Country Planning
801 Anna Salai
Chennai 600 002
3. The Deputy Director
Town & Country Planning
83 Pidamanari Road
Appavu Nagar
Dharmapuri
4. The District Collector
Krishnagiri
Krishnagiri District
5. The President
Soolagiri Village Panchayat
Krishnagiri



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6. The Block Development Officer
Soolagiri Panchayat
Soolagiri 636 117
Krishnagiri

7. Shaik Mohamed

Respondents

(R7 impleaded *vide* order dated
01.11.2023 in W.M.P. No.23520 of 2023)

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for the records of the first respondent in connection with the impugned order bearing letter no.7162/UD4-1/2019-9 dated 12.11.2019 and quash the same.

For petitioner	:	Mr. Mohan Balaji for Mr. M.D. Thirunavukkarasu
For RR 1 to 4	:	Mr. V. Ravi Special Government Pleader
For RR 5 & 6	:	Mr. M. Murali Government Advocate
For R7	:	Ms. K. Abhirame for Ms.V. Srimathi

ORDER

[made by M.SUNDAR, J.]

Captioned 'writ petition' (hereinafter 'WP' for the sake of brevity) pertains to a construction put up by the writ petitioner in Survey No.62/3 admeasuring 0.62.50 hectares or thereabouts, Soolagiri Village/Panchayat, Soolagiri Taluk/Panchayat Union in Krishnagiri District (hereinafter 'said property' for the sake of convenience and clarity).



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2. The superstructure that has been put up by the writ petitioner, admittedly, consists of basement, ground + 3 floors. It is submitted that the area of the plot is 15,000 sq. ft. or thereabouts.

3. This is the fifth round of litigation in this Court. The earlier rounds of litigations are as follows:

i. R7 before us (Shaik Mohamed) filed a writ petition in W.P.No.19299 of 2016 with a prayer to implement a lock and seal notice dated 09.09.2015. To be noted, it is a lock and seal notice *qua* said property. This writ petition was disposed of by another Hon'ble Division Bench in and by order dated 10.11.2016 making it clear that it is open to the writ petitioner herein (to be noted, writ petitioner herein is R7 in W.P.No.19299 of 2016) to produce planning permission, if any, within two weeks and if no planning permission is produced/granted, the local authority shall proceed in accordance with law and complete the exercise within two months;

ii. After the aforementioned 10.11.2016 order, a stop work notice dated 31.01.2019 was issued by the



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Deputy Director of Town and Country Planning, Dharmapuri and this stop work notice was assailed by the writ petitioner herein *vide* W.P.No.3522 of 2019 which came to be disposed of by another Hon'ble Division Bench in and by an order dated 07.02.2019. In and by this order, this writ petition was dismissed, however, making it clear that it is open to the writ petitioner to resort to Section 80-A of 'the Tamil Nadu Town and Country Planning Act, 1971 (Act 35 of 1972)' (hereinafter 'TCP Act' for the sake of brevity). Pursuant thereto, the writ petitioner filed an appeal under Section 80-A of TCP Act on 08.02.2019, an interim order dated 08.02.2019 was passed by the appellate authority staying enforcement action for a period of three weeks from that date;

iii. Thereafter, Additional Secretary of the Housing and Urban Development Department issued a letter dated 18.03.2019 bearing reference Letter No.2947/UD4(1)/2019-2, the same was assailed by the writ petitioner herein by way of W.P.No.10287 of 2019 which came to be disposed of by another Hon'ble Division



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Bench in and by order dated 04.04.2019 holding that the entire exercise of considering the case of the writ petitioner for approval of building plan *qua* said property should be completed within a period of 4 weeks from that date;

iv. Meanwhile, a contempt petition being Cont. Petn. No.2088 of 2017 was filed by R7 before us alleging breach of aforementioned order dated 10.11.2016 made in W.P.No.19299 of 2016. This contempt petition came to be disposed of by another Hon'ble Division Bench on 24.06.2019 *inter alia* directing the respondents therein to proceed with demolition of unauthorised construction; and

v. Captioned WP is the fifth round of litigation as disposal of appeal under Section 80-A of TCP Act by R1 in and by order dated 12.11.2019 bearing reference Letter No.7162/UD4-1/2019-9 (impugned order) has been assailed in the present writ petition.

4. Mr. Mohan Balaji, learned counsel representing Mr.M.D.Thirunavukkarasu, counsel on record for writ petitioner is before us on the Video Conferencing platform and he expressed regret



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for missing the matter on 20.12.2024. Mr. V. Ravi, learned Special Government Pleader for RR 1 to 4, Mr. M. Murali, learned Government Advocate for RR 5 and 6 and Ms. K. Abhirame, learned counsel representing Ms.V. Srimathy, counsel on record for R7 are before us in the physical Court. To be noted, this is a hybrid hearing which is a daily/regular/routine feature in this Court.

5. Learned counsel for writ petitioner predicated his campaign against the impugned order on the following points:

i. a Predecessor Division Bench of this Court, while hearing the captioned WP, in and by proceedings made on 19.06.2024, directed the official respondents to file a status report as regards the possibility of regularising the building *qua* said property to the extent that is possible;

ii. the writ petitioner would do the needful to have the said construction regularised if further time is granted; and

iii. no personal hearing was granted to the writ petitioner.



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6. To be noted, challenge to the impugned order in the captioned WP was projected by learned counsel for writ petitioner on the aforesaid three points notwithstanding very many averments and grounds in the writ support affidavit.

7. We carefully considered the three points raised by learned counsel for writ petitioner.

8. As regards the 19.06.2024 proceedings made by Predecessor Division Bench, a status report dated 04.07.2024 has been filed. Adverting to the said status report, Mr. V. Ravi, learned State counsel, submits that it is not possible to regularise the building.

9. In this regard, learned counsel for R7 submits that R7 is the whistleblower having filed the first of the writ petitions being W.P.No.19299 of 2016 bringing to notice, the large scale violation. Learned counsel also pointed out that a huge construction consisting of basement, ground + three floors has been put up without even a planning permission.



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10. In the light of the status report and the stated position of the learned State counsel, the first point becomes a damp squib *i.e.*, a nonstarter. In other words, the first point fails to take off.

11. The next point turns on the readiness of the writ petitioner to bring the building within compliance. The first point itself answers the second point. If regularisation is not possible at all, the question of granting further time to bring it within compliance really does not hold water. It is clear from the trajectory the matter has taken thus far that for nearly a decade now, *i.e.*, from 2015, the writ petitioner has been biding time by filing a barrage of writ petitions.

12. As regards the third point of personal hearing, a careful perusal of paragraphs 11 and 12 of the impugned order nails the issue. To be noted, paragraphs 11 and 12 of the impugned order read as follows:



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11. Accordingly, when Personal hearing was conducted on 01.10.2019, the appellant did not attend the hearing. The Planning permission application is pending. The appellant did not submit the structural Engineer's report and also not made any rectification at site and the building remains with deviations / violation as stated earlier.

12. Since it is a public building, enough time and opportunities were given to restore the building, satisfy the present rules in force and obtain the Planning permission. However, the appellant was seeking more time on medical grounds and for other reasons. Further, the appellant did not attend the hearing even though ample opportunities were given on 11.07.2019 & 1.10.2019. The revised planning permission application to the Local Planning Authority for the building does not satisfy TNCDPR, 2019 in terms of setback requirements on all sides, distance between Blocks, corridor width and other parameters of the building put up at S.No.62/3, 3/75/10/1/14 Bazaar Street, Soolagiri, Hosur, Krishnagiri. Hence, the Revision petition filed u/s. 80A of TNT&CP Act, 1971 by the appellant Tmt.K.S.Akila Begum is rejected and the Local Planning Authority is directed to take necessary action to dispose the Planning Permission Application and pursue appropriate enforcement action in compliance of the court orders in Contempt petition 1035/2019 dated 02.07.2019.

13. From a bare reading of paragraphs 11 and 12 of the impugned order extracted and reproduced above, it is evident that personal hearing has been granted but the writ petitioner has not utilised/availed of the same. The writ petitioner has to blame herself for this. Be that as it may, writ petitioner has been fully in the know of developments as the writ petitioner has been relentlessly filing successive writ petitions (one after the other) as would be evident from the narrative thus far. Therefore, the third point of personal



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hearing also does not really come to the aid of the writ petitioner. In any event, a careful perusal of the impugned order brings to light that every conceivable point that can be projected by the writ petitioner has been considered meticulously by the appellate authority and we find no infirmity in the impugned order.

14. In the light of the narrative, discussion and dispositive reasoning thus far, we are of the considered view that it is time to draw curtains on the decade-old exercise/legal drill as a huge unauthorised construction consisting of basement, ground + three floors has survived by way of a barrage of writ petitions.

15. As all the points canvassed by the writ petitioner fail, captioned WP fails and the same is dismissed. Consequently, captioned WMPs thereat also perish with the main WP. In other words, captioned WMPs are also dismissed. There shall be no order as to costs.

(M.S., J.) (K.R.S., J.)

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