

W.P.No.39241 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2025

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CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE K.RAJASEKAR

W.P.No.39241 of 2024

Sunrise Club-Covai rep by
its Secretary S.Arokiyasamy
S No.219/1B, Somanur Main Road
Karumathampatti Village, Coimbatore .. Petitioner

v.

1. The Commissioner
Karumathampatti Municipality
Somanur, Coimbatore 641 668
2. The Assistant Executive Engineer
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Somanur, Coimbatore
3. S.Tangavel
4. S.Vijayarangan .. Respondents

Petition filed under Article 226 of the Constitution of India, praying
for issuance of a Writ of Certiorarified Mandamus, calling for the records of



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the 1st respondent made in Na.Ka.No.2132/2024/F1 dated 26.11.2024 and quash the same as null and void, illegal and consequently permit the petitioner to conduct his business without any hindrance from the 1st respondent or anyone claiming through him at the petition premises and further direct the 2nd respondent to provide electricity service connection to the petition premises at Sun Rise Club-Covai, S.No.219/1B, Somanur Main Road, Karumathampatti, Coimbatore.

For Petitioner :: Mr.N.Vanaraj

For Respondents :: Mr.P.Srinivas for R1
 Ms.Sindhuza M.S for
 Mr.L.Jaivenkatesh for R2
 No appearance for R3
 Mr.R.Harikrishnan for R4

ORDER

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

The notice issued by the Commissioner, Karumathampatti Municipality dated 26.11.2024 is sought to be assailed in the present writ proceedings.

2. The petitioner is Sunrise Club-Covai represented by its Secretary



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S.Arokiyasamy. The petitioner claims to be a society registered under the Tamil Nadu Societies Registration Act. Admittedly, the petitioner is a tenant under one Mr.S.Tangavel, who is the owner of the said property. A complaint was received by the Commissioner, Karumathampatti Municipality stating that the said Mr.S.Tangavel constructed the subject building unauthorizedly without obtaining building plan permission from the competent authority. The municipal authorities conducted an inspection and found that no building plan approval was granted and the building is wholly unauthorized. Thus a notice was issued on 24.10.2024 calling upon the owner to submit documents to establish that building plan permission has been granted. Since the owner of the building Mr.S.Tangavel is unable to produce any valid document regarding building plan approval, further action was initiated by the Commissioner, Karumathampatti Municipality under Section 135 of the Tamil Nadu Urban Local Bodies Act, 1998. Accordingly, the impugned notice was issued in proceeding daed 26.11.2024 asking the owner of the building Mr.S.Tangavel to demolish the building, failing which the Municipality would initiate action for demolition of the building and recover expenditures from the owner of the building.



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3. Curiously, the present writ petition has been filed by a tenant.

Though notice has been served on the third respondent, he has not chosen to appear before this Court. Mr.R.Harikrishnan, learned counsel appears for the fourth respondent.

4. Landlord-tenant dispute is pending between the third respondent and the writ petitioner. Action was initiated by the Municipality pursuant to the writ petition filed by the fourth respondent in W.P.No.31152 of 2024, wherein this Court passed the order dated 23.10.2024 to initiate appropriate action against the unauthorized building.

5. The learned counsel appearing for petitioner would submit that the petitioner is running a recreational club by duly obtaining permission from the competent authorities. Licence has been obtained to run a bar. However, the petitioner is a tenant and therefore he is noway connected with the unauthorized building, since notice itself was served on the owner of the building.



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6. The petitioner has no locus standi to file the present writ petition. If

at all the petitioner has any grievance against the landlord, it is to be redressed by approaching the competent civil Court of law and in the present case, litigation is pending between the writ petitioner and the third respondent/landlord. Therefore, the petitioner, instead of redressing its grievance against the third respondent in the manner known to law, filed the present writ petition in order to protract and prolong the demolition proceedings already initiated by the municipal authorities.

7. In respect of recreational clubs like that of the petitioner, police authorities have to conduct frequent inspection to monitor the activities of recreational clubs. This Court as well as the Government of Tamil Nadu issued several directions for running of such recreational clubs. The Director General of Police also issued circular to ensure that the bylaws approved under the Tamil Nadu Societies Registration Act have been implemented properly and in the event of violation, actions are taken in coordination with the Societies Registration authorities and other officials in connection with the affairs of the State.



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8. In this context, the legal principles in the matter of unauthorized construction have been enunciated by the Hon'ble Supreme Court in the case of *Rajendra Kumar Barjatya and another v. U.P.Avas Evam Vikas Parishad and others* (Civil Appeal No.14604 of 2024 dated 17.12.2024) elaborately and the directives issued by the Supreme Court in the said judgment are reproduced hereunder:-

21. Therefore, in the larger public interest, we are inclined to issue the following directions, in addition to the directives issued by this Court in Re: Directions in the matter of demolition of structures (supra):

(i) While issuing the building planning permission, an undertaking be obtained from the builder/applicant, as the case may be, to the effect that possession of the building will be entrusted and/or handed over to the owners/beneficiaries only after obtaining completion/occupation certificate from the authorities concerned.

(ii) The builder/developer/owner shall cause to be displayed at the construction site, a copy of the approved plan during the entire period of construction and the 32 authorities concerned shall inspect the premises periodically and maintain a record of such inspection in their official records.

(iii) Upon conducting personal inspection and being satisfied that the building is constructed in accordance with the building planning permission given and there is no deviation in such construction in any manner, the completion/occupation certificate in respect of residential / commercial building, be issued by the authority concerned to the



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parties concerned, without causing undue delay. If any deviation is noticed, action must be taken in accordance with the Act and the process of issuance of completion/occupation certificate should be deferred, unless and until the deviations pointed out are completely rectified.

(iv) All the necessary service connections, such as, Electricity, water supply, sewerage connection, etc., shall be given by the service provider / Board to the buildings only after the production of the completion/occupation certificate.

(v) Even after issuance of completion certificate, deviation / violation if any contrary to the planning permission brought to the notice of the authority immediate steps be taken by the said authority concerned, in accordance with law, against the builder / owner / occupant; and the official, who is responsible for issuance of wrongful completion /occupation certificate shall be proceeded departmentally forthwith.

(vi) No permission /licence to conduct any business/trade must be given by any authorities including local bodies of States/Union Territories in any unauthorized building irrespective of it being residential or commercial building.

(vii) The development must be in conformity with the zonal plan and usage. Any modification to such zonal plan and usage must be taken by strictly following the rules in place and in consideration of the larger public interest and the impact on the environment.

(viii) Whenever any request is made by the respective authority under the planning department/local body for co-operation from another department to take action against any unauthorized construction, the latter shall render immediate assistance and co-operation and any delay



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or dereliction would be viewed seriously. The States/UT must also take disciplinary action against the erring officials once it is brought to their knowledge.

(ix) In the event of any application / appeal / revision being filed by the owner or builder against the non-issuance of completion certificate or for regularisation of unauthorised construction or rectification of deviation etc., the same shall be disposed of by the authority concerned, including the pending appeals / revisions, as expeditiously as possible, in any event not later than 90 days as statutorily provided.

(x) If the authorities strictly adhere to the earlier directions issued by this court and those being passed today, they would have deterrent effect and the quantum of litigation before the Tribunal / Courts relating to house / building constructions would come down drastically. Hence, necessary instructions should be issued by all the State/UT Governments in the form of Circular to all concerned with a warning that all directions must be scrupulously followed and failure to do so will be viewed seriously, with departmental action being initiated against the erring officials as per law.

(xi) Banks / financial institutions shall sanction loan against any building as a security only after verifying the completion/occupation certificate issued to a building on production of the same by the parties concerned.

(xii) The violation of any of the directions would lead to initiation of contempt proceedings in addition to the prosecution under the respective laws.”

9. In the light of the above directives, in the present case, the owner



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of the building i.e., third respondent has not produced any valid document

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to establish that building plan permission was granted. Already opportunity was granted to the owner to demolish the building within the time limit fixed in the impugned order dated 26.11.2024. Since no action has been taken by the owner of the building, the municipal authorities are bound to initiate all further actions.

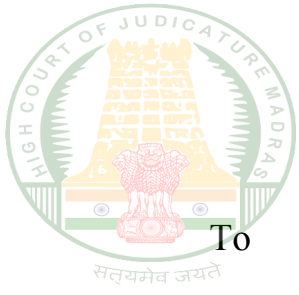
10. Accordingly, the respondents 1 & 2 are directed to implement the enforcement actions already initiated by demolishing the unauthorized building and restore the land to its original position on or before 27th April, 2025. With these observations, the writ petition stands dismissed. Consequently, W.M.P.Nos.42501, 42503 & 42506 of 2024 are also dismissed. No costs.

Post the writ petition before this Bench for reporting compliance on 28th April, 2025.

Index : yes
Neutral citation : yes

(S.M.S.,J.) (K.R.S.,J.)
11.03.2025

SS



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To

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