



W.P.(MD)No.3956 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 10.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.P.(MD)No.3956 of 2025

and

W.M.P.(MD)No.2866 of 2025

Karuppiah

Vs.

... Petitioner

1. The Assistant Director of Town and Country Planning,
DTCP Office,
No.466/A, 17 Ward,
Nehruji Nagar,
Allinagaram,
Theni District.

2. The Executive Officer,
Palanichetti Patti Town Panchayat,
Theni District.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relates to the order passed by the 2nd respondent in Na.Ka.No.297/2021 dated 03.01.2025 and quash the same as it is arbitrary and illegal.



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For Petitioner : Mr.R.Suriya Narayanan

For Respondents : Mr.M.Sarangan (R1)

Additional Government Pleader

Mr.J.Ashok (R2)

Additional Government Pleader

ORDER

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

The lock and seal notice issued under Section 56(1) of the Tamil Nadu Town and Country Planning Act, 1971, in proceeding dated 03.01.2025 is under challenge in the present writ proceedings.

2. The learned counsel appearing for the petitioner would submit that no opportunity was granted to the petitioner to defend his case with reference to the documents available on record. That apart, the Commissioner, Town Panchayat, has no powers to issue the impugned notice. Thirdly, he contends that the authorities have failed to apply their mind with reference to the nature of the building, occupation of the petitioner and other material factors. That apart, the procedures as contemplated are also violated.



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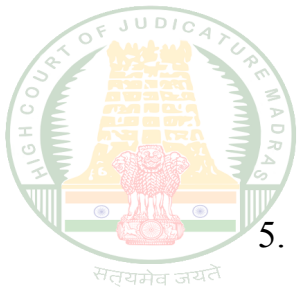
3. The learned Additional Government Pleader would oppose by stating that the powers are delegated to the Commissioner, Town Panchayat by the Government through G.O.Ms.No.289, Housing and Urban Development (UD 4-1) Department, dated 16.12.2010. The Government, in exercise of powers, delegated certain powers to the said authorities to initiate action under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971. Therefore, the Commissioner, Town Panchayat has got powers to issue notice of lock and seal by invoking Section 56 of the Tamil Nadu Town and Country Planning Act, 1971. Secondly, the official respondents would contend that a preliminary report was received after conducting an inspection. Consequently, the second respondent, vide proceedings dated 06.06.2024 has decided to issue notice calling for the relevant records of the building from the occupiers / owners. Consequently, notice in Form-I (under Rule 3) was issued to all the owners of unauthorized building including the petitioner calling for production of documents. However, the petitioner did not produce any documents as required under Form-I notice. Thereafter, Form-II notice (Rule 4(1)) dated 07.11.2024 was issued to the writ petitioner for conducting spot inspection on 15.11.2024 at 12.00 p.m. As scheduled, inspection was conducted and violations are identified. Again, notice



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was issued on 21.11.2024 calling for production of relevant records and the petitioner sent a reply on 25.11.2024 stating that he has already got building plan approval and paying property tax for the said building and cautioned that he would take action for any damage, if any illegal action is taken against him. But the writ petitioner did not attach any documents in his reply dated 25.11.2024, whereas he claimed that he is paying property tax etc. After completing the above procedures in accordance with the Act and Rules, Form-IV (under Rule 5(b)) was issued in proceeding dated 03.01.2025, which is under challenge in the present writ proceedings.

4. The lock and seal notice is susceptible of a revision before the Government under Section 80A of the Tamil Nadu Town and Country Planning Act, 1971. When an efficacious and alternative remedy is contemplated under the Tamil Nadu Town and Country Planning Act, 1971 and the Government is empowered to call for the original records to consider the merits and take a decision, it is unnecessary for the High Court to exercise the power of judicial review and the scope of judicial review is limited and the factual disputes are to be adjudicated with reference to the documents and evidences available on record.

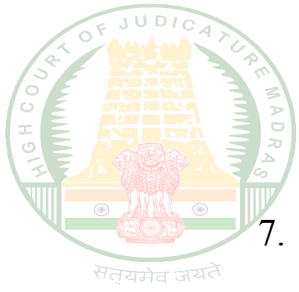


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5. The power of the High Court under Article 226 is to ensure the processes, through which the decision has been taken, but not the decision itself.

Thus, no writ against such notice is entertainable, since all such factual and legal grounds can be raised before the Government under Section 80A of the Tamil Nadu Town and Country Planning Act, 1971. The Government may consider the grounds, if any raised in this regard. Prima facie, this Court found that the procedures are followed before issuing the impugned lock and seal notice. That being so, the present writ petition is not entertainable. The authorities are at liberty to continue the enforcement action by following the procedures as contemplated. The petitioner may approach the Government under Section 80A of the Tamil Nadu Town and Country Planning Act, 1971, if he is chosen to do so.

6. At this juncture, it is submitted by the learned counsel appearing for the petitioner that on 15.11.2024, the officials have conducted an inspection and measured the building and the petitioner states that he showed the documents and building permission to establish that there is no violation of building permission. Then the authorities left the properties. But, they issued notice on 21.11.2024 calling upon the petitioner to produce the documents.



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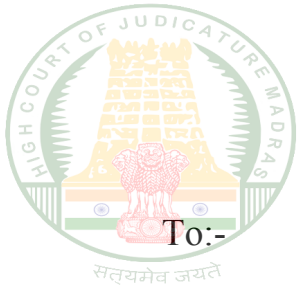
7. However, the facts in details stated by the petitioner in rejoinder require an adjudication on merits and in accordance with law, which cannot be undertaken in the writ proceedings.

8. With these observations, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S., J.) & (A.D.M.C., J.)

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NCC : Yes / No
Index : Yes / No
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