



W.P(MD)No.18991 of 2025

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 16.07.2025**

**CORAM:**

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

**THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

**W.P(MD)No.18991 of 2025**

**and**

**W.M.P.(MD) No.14547 of 2025**

P.S.Rajeswari

... Petitioner

**Vs**

1. The Additional Secretary (Technical),  
Housing and Urban Development Department,  
Secretariat,  
Fort St. George, Chennai.

2. The Commissioner,  
Tenkasi Municipality,  
No.85, Anaikarai Street,  
Tenkasi District - 627 811.

3. The Member Secretary / Assistant Director,  
Tenkasi Local Planning Authority,  
Town and Country Planning Department,  
Tenkasi District - 627 811.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, thereby calling for the impugned order on the file of the 1st respondent



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vide Letter No.7604315/UD-4 (L.Re.2)/2024-3 dated 09.05.2025 and consequent order passed by the 2nd respondent vide Na.Ka.No. 525/2023/F1 dated 11.06.2025 and quash the same as illegal and as devoid of merits and further direct the respondent to provide reasonable further time to rectify the deviations in the building, as per the 1st respondent order vide Letter No.191/UD4 (L.Re.2)/2023-4 dated 09.10.2023 and direct the respondent to regularize the deviation in petitioners building in survey number 700/8A1A of Tenkasi Town and Taluk bearing door No.185 and 184, Kannimaramman Kovil Street, Tenkasi.

For Petitioner : Mr.Raja.Karthikeyan,  
For Respondent : Mr.J.Ashok (R1 & R3)  
Additional Government Pleader  
: Mr.P.Athimoolapandian (R2)

### **ORDER**

**[Order of the Court was made by S.M.SUBRAMANIAM, J.]**

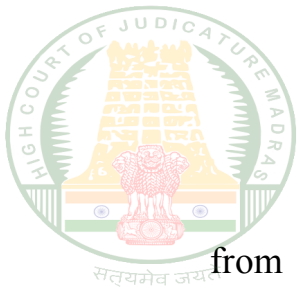
The writ on hand has been instituted challenging the order of the Government passed under Section 80A of the Town and Country Planning Act vide proceedings dated 09.05.2025 and the consequential order passed by the second respondent dated 11.06.2025.



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2.Before advertng to the facts relating to the impugned order, on an earlier occasion the petitioner preferred a revision under Section 80A of the Town and Country Planning Act before the Government. The Government elaborately adjudicated the issues and passed a final order vide letter dated 09.10.2023. The said order remains unchallenged and the order dated 09.10.2023, passed under Section 80A of the Town and Country Planning Act became final. Therefore, subsequent revision petition, if any, under Section 80A of the Town and Country Planning Act is not entertainable at all. However, the Government considered and reiterated the earlier order of the year 2023 in the impugned order, dated 09.05.2025. Thus, the consequential order dated 11.06.2025 would not provide an independent cause for institution of writ proceedings in the absence of challenging the elaborate order passed by the Government under section 80A of Town and Country Planning Act.

3.The order, dated 09.10.2023 issued by the Government reveals that the petitioner participated in the process of hearing. Personal hearing was held on 01.08.2023. The petitioner was represented through her counsel before the Government. Officials from DTCP and officials



from Tenkasi Municipality were also present before the Government.

The petitioner's ground floor plus third floor commercial buildings are unauthorized. The petitioner's site lies in mixed-use zone, wherein, residential use is permissible and commercial activities is not permissible on the road having width of 7.8 meters.

4.The petitioner pleaded before the Government that applications seeking regularization was filed and necessary charges are also paid. Pertinently, regularization of unauthorized buildings cannot be granted by the authorities.

5.In view of the judgment of the Hon'ble Supreme Court of India in the case of ***Rajendra Kumar Barjatya and another Vs. U.P.Avas Evam Vikas Parishad and others*** reported in **2024 INSC 990**. The relevant paragraphs Nos.20 and 21 runs as follows:

*"20. In the ultimate analysis, we are of the opinion that construction(s) put up in violation of or deviation from the building plan approved by the local authority and the constructions which are audaciously put up without any building planning approval, cannot be encouraged. Each and every construction must be made scrupulously following and strictly*

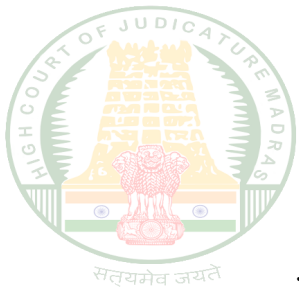


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*adhering to the Rules. In the event of any violation being brought to the notice of the Courts, it has to be curtailed with iron hands and any lenience afforded to them would amount to showing misplaced sympathy. Delay in directing rectification of illegalities, administrative failure, regulatory inefficiency, cost of construction and investment, negligence and laxity on the part of the authorities concerned in performing their obligation(s) under the Act, cannot be used as a shield to defend action taken against the illegal/unauthorized constructions. That apart, the State Governments often seek to enrich themselves through the process of regularisation by condoning/ratifying the violations and illegalities. The State is unmindful that this gain is insignificant compared to the long-term damage it causes to the orderly urban development and irreversible adverse impact on the environment. Hence, regularization schemes must be brought out only in exceptional circumstances and as a onetime measure for residential houses after a detailed survey and considering the nature of land, fertility, usage, impact on the environment, availability and distribution of resources, proximity to water bodies/rivers and larger public interest. Unauthorised constructions, apart from posing a threat to the life of the occupants and the citizens living nearby, also have an effect on resources like electricity, ground water and access to roads, which are primarily designed to be made available in orderly development and authorized activities. Master plan or the zonal development cannot be just individual centric but also must be devised keeping in mind the larger interest of the public and the environment. Unless the administration is streamlined and the persons entrusted with the implementation of the act are held accountable for their*



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*failure in performing statutory obligations, violations of this nature would go unchecked and become more rampant. If the officials are let scot-free, they will be emboldened and would continue to turn a nelson's eye to all the illegalities resulting in derailment of all planned projects and pollution, disorderly traffic, security risks, etc.*

*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 authorities concerned shall inspect the premises periodically and maintain a record of such inspection in their official records.*

*(iii) Upon conducting personal inspection and*



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*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 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*



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*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 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*



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*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."*

6.The Apex Court reiterated the said position in yet another judgment in the case of **Kaniz Ahmed Vs. Sabuddin and others** reported in **2025 INSC 610**, wherein, the Hon'ble Supreme Court has held that the Court must adopt a strict while dealing with the illegal construction and should not readily engage them in judicial regularization of buildings erected without requisite permissions of the competent authority. The



relevant paragraph No.7 reads as under:

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*"7. Thus, the Courts must adopt a strict approach while dealing with cases of illegal construction and should not readily engage themselves in judicial regularisation of buildings erected without requisite permissions of the competent authority. The need for maintaining such a firm stance emanates not only from inviolable duty cast upon the Courts to uphold the rule of law, rather such judicial restraint gains more force in order to facilitate the well-being of all concerned. The law ought not to come to rescue of those who flout its rigours as allowing the same might result in flourishing the culture of impunity. Put otherwise, if the law were to protect the ones who endeavour to disregard it, the same would lead to undermine the deterrent effect of laws, which is the cornerstone of a just and orderly society. [See: Ashok Malhotra v. Municipal Corporation of Delhi, W.P. (c) No. 10233 of 2024 (Delhi HighCourt)]"*

7. Admittedly, unauthorized constructions are identified. The petitioner has made an attempt to prolong and protract the enforcement actions by increasing the longevity of the litigations or by filing multiple proceedings. Such an attempt of the litigant at no circumstances encouraged by the High Courts. Once enforcement actions are initiated, an opportunity is to be provided to the parties and thereafter, a final decision is to be taken and actions initiated must be completed.



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8.In the present case, action was initiated in the year 2023 itself. Lock and seal notice was issued and the petitioner preferred a revision under Section 80A of the Town and Country Planning Act. Government afforded opportunity to all the parties and elaborately considered the facts on merits and granted three months time to the petitioner to carry out necessary rectification in the building to satisfy the rules. Instead of complying with the order, the petitioner is re-litigating the issues, which is impermissible under law. Thus, the petitioner has not made out any semblance of legal right for the purpose of considering the relief sought for. Consequently, the authorities and official respondents are bound to complete the enforcement actions.

9.At this juncture, the learned Counsel for the petitioner would submit that the petitioner herself will demolish the unauthorized portion of the construction and restore the building as per the building plan permission granted.

10.In view of such submission, the petitioner is granted two months time finally, from the date of receipt of a copy of this order and



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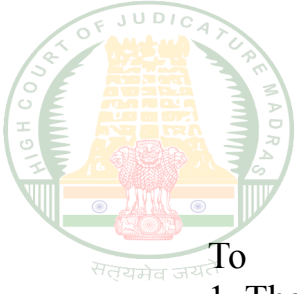
no further extension of time will be granted by this Court. In the event of the petitioner demolishing the unauthorised construction, within the said period of two months, an inspection should be conducted by the Commissioner, Tenkasi Municipality to ensure that the building is restored as per the building plan permission. In the event of failure on the part of the petitioner, the Commissioner, Tenkasi Municipality is directed to demolish the unauthorized portion of the construction and recover the cost from the petitioner by following the procedures.

11. With the above observations and directions, the writ petition stands dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

[S.M.S., J.] [A.D.M.C., J.]  
16.07.2025

Index: Yes/No  
Internet: Yes/No  
NCC: Yes/No

LR



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**S.M.SUBRAMANIAM, J.**  
**and**  
**DR.A.D.MARIA CLETE, J.**

LR

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