



W.P(MD)No.20157 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.07.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.P(MD)No.20157 of 2024
and
W.M.P(MD)No.17101 of 2024**

Selvaganesh

... Petitioner

vs.

The Executive Officer,
Vadipatti Town Panchayat,
Vadipatti,
Madurai.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records relating to the impugned lock and seal notice of the respondent in Na.Ka.No.136/2024 dated 12.08.2024 and 19.08.2024 and quash the same as illegal.



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For Petitioner : Mr.M.Mahaboob Athiff

For Respondent : Mr.P.Thilak Kumar
Government Pleader

ORDER

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

The writ on hand has been instituted challenging the lock and seal notice issued under Section 56 of the Tamil Nadu Town and Country Planning Act, 1971 (hereinafter referred to as “the Act, 1971”).

2.The authorities competent conducted an inspection and identified unauthorized constructions carried out by the petitioner. Consequently, enforcement actions were initiated under the Act. A lock and seal notice was issued, providing further opportunity to the petitioner to respond. The petitioner has challenged the said notice mainly on the ground that a retention application has been filed under Section 56(3) read with Section 56(4)(a) of the Tamil Nadu Town and Country Planning Act, 1971. Therefore, the petitioner contends that an opportunity to regularize the



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unauthorized constructions should be granted and hence the present Writ Petition is to be considered.

3.The learned counsel appearing on behalf of the respondent would oppose the petition by stating that, as of now, there exists no legal provision to regularize unauthorized constructions. Courts have consistently held that illegal constructions cannot be regularized. Enforcement action was duly initiated and the lock and seal notice was issued. On account of the pendency of the Writ Petition, further actions were stopped by the authorities.

4.The learned Government Pleader appearing for the respondent further submitted that the construction has been identified as unauthorized. Therefore, the authorities are duty-bound to initiate enforcement action and demolish the unauthorized constructions. In order to provide an opportunity to the petitioner, a notice was issued to him calling for demolition of the building. Since he did not respond to the same, a lock and seal notice was



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issued to facilitate enforcement. In view of the interim order granted in the present Writ Petition, further enforcement actions have been stopped.

5. Issues relating to unauthorized constructions and the consequent enforcement actions under the relevant Act and Rules is no longer *res integra*. The Hon'ble Supreme Court of India in unequivocal terms reiterated that Courts cannot encourage such illegal or unauthorized constructions or deviations, which must be dealt with sternly by the authorities in the public interest.

6. The first Judgment of the Hon'ble Supreme Court in the case of ***Rajendra Kumar Barjatya and another Vs. U.P. Avas Evam Vikas Parishad and others*** reported in ***2024 INSC 990***, a Judgment in realm has been issued wherein several directions were issued by the Hon'ble Supreme Court as under:

“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



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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 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



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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 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



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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 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



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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 or dereliction would



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(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



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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.”

7.In continuation of the Judgment cited supra, the very same Bench of the Hon'ble Supreme Court of India reiterated the said principles in the case of ***Kaniz Ahmed Vs. Sabuddin and others*** reported in **2025 INSC 610**. In the said Judgment, the Supreme Court again reminded High Courts not to encourage illegal constructions or grant judicial regularization for buildings constructed without requisite permissions from the competent authorities in accordance with the Rules. Paragraph 7 of the said Judgment reads as under:

“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



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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 High Court)] ”.

8.With reference to the ground raised by the petitioner, lock and seal notice issued under Section 56 of the Tamil Nadu Town and Country Planning Act, 1971 is susceptible to revision under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, which is to be decided by the Government after providing an opportunity to the concerned parties.

9.As far as the retention application filed by the petitioner under Section 56(3) of the Tamil Nadu Town and Country Planning Act, 1971 is



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concerned, the said application is based on an erroneous interpretation of the scope and intent of Section 56 of the Act, 1971.

10. Section 49 of the Tamil Nadu Town and Country Planning Act, 1971, deals with application for permission. Such an application must be filed before commencement of the building construction. Therefore, mere submission of an application would not be sufficient for the purpose of commencement of building construction. Only after receiving proper building plan permission from the competent authority in accordance with the provisions of the Act, the building activities must be commenced.

11. The authorities are bound to conduct inspections after granting building plan permission. The field authorities are bound to monitor the construction activities so as to ensure that the constructions are made in consonance with the building plan permission granted by the authorities. In the event of any violation, enforcement actions are to be initiated under the provisions of the relevant Act and Rules.



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12. Section 54 of the Tamil Nadu Town and Country Planning Act, 1971, contemplates power of revocation and modification of permission to development. Section 56 of the Act, 1971, provides power to require removal of unauthorized development. Therefore, in the event of identifying unauthorized development/construction, authorities are bound to initiate enforcement action under Section 56 of the Act, 1971. Sub-Section (2-A) of Section 56 of the Act, 1971 would denote that if the owner or occupier, as the case may be, of land or building has not discontinued, the use of such land or building as required in the notice served under sub-Section (1), within the time specified therein, the appropriate planning authority if *prima facie* satisfied, may take action to discontinue the use of such land or building by locking and sealing the premises in such manner as may be prescribed irrespective of pendency of any application under Section 49 or appeal under Section 79 or any litigation before a Court. The owner or occupier, as the case may be, of such land or building shall provide security for such sealed premises.

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13.The very object of sub-Section (2-A) to Section 56 of the Act, 1971, is to execute the enforcement actions initiated against illegal/unauthorized constructions under Section 56 of the Tamil Nadu Town and Country Planning Act, 1971. Therefore, the scope of sub-Section (2-A) to Section 56 of the Act, 1971 cannot be expanded beyond the enforcement actions to be initiated. Sub-Section (3) to Section 56 of the Act, 1971, enumerates that any person aggrieved by such notice may, within the period specified in the notice and in the manner prescribed, apply for permission under Section 49 for the retention of the land, or any buildings or works or for the continuance of any use of the land or building to which the notice relates.

14.In this regard, sub-Section (3) to Section 56 of the Act, 1971 must be read holistically and in continuation of Section 56 (1)(2) and (2-A) of the Act, 1971. Sub-Section (3) to Section 56 of the Act, 1971 cannot be read in isolation so as to understand that an application for retention must be



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for the purpose of retaining the unauthorized constructions. During the course of enforcement actions, the authorities may accord permission for retention of the continuance of any use of the land or building to which the notice relates, enabling the occupier to remove belongings or correct the deviation, as the case may be. It is only an interim measure enabling the occupier of the unauthorized construction to continue the usage of the building till such time, the enforcement actions are completed. However, the scope of sub-Section (3) to Section 56 of the Act, 1971 cannot be expanded for the purpose of regularizing the unauthorized/illegal constructions already made. Therefore, a retention application cannot be misinterpreted as if such application would provide scope for regularization of unauthorized constructions.

15.In the present case, the writ petition has been instituted challenging the lock and seal notice. Therefore, the petitioner is at liberty to prefer a revision before the Government under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971. However, mere filing or



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pendency of revision petition is not a bar for completing the enforcement action by the authorities, unless the Government grant an interim order under sub-Section (3) to Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971.

16. With the above observations, this Writ Petition is dismissed.

No costs. Consequently, connected Miscellaneous Petition is closed.

[S.M.S.,J.] & [S.S.Y.,J.]
15.07.2025
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NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

The Executive Officer,
Vadipatti Town Panchayat,
Vadipatti,
Madurai.

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S.M.SUBRAMANIAM, J.
and
S.SRIMATHY, J.

ps

ORDER MADE IN
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DATED : 15.07.2025
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