

W.P(MD)No.3482 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.3482 of 2025
and
W.M.P.(MD) No.2464 of 2025**

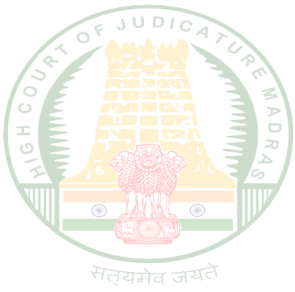
M.Daniel Simiyon Sudan

... Petitioner

Vs

1. The District Collector,
Tiruchirappalli District,
Tiruchirappalli.
2. The Tahsildar,
Srirangam Taluk,
Tiruchirappalli District.
3. The Block Development Officer,
Manikandam Union,
Tiruchirappalli District.
4. The Village President,
Punganur Panchayat,
Tiruchirappalli.
5. D.Kesavan

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6.The State of Tamil Nadu,
The Chief Secretary,
Fort St.George,
Chennai - 9.

... Respondents

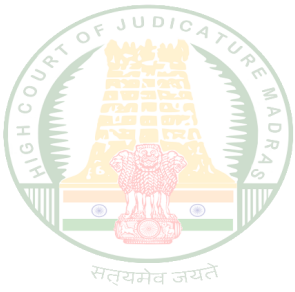
**(*R6 suo-motu impleaded by this Court
vide order dated 10.06.2025)**

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to remove the Unauthorized Construction (Rice Mills) put up by the 5th Respondent in S.No. 83/3A, Thayanur Group Punganur village, Srirangam Taluk, Tiruchirappalli District.

For Petitioner : Mr.M.Dinesh Hari Sudarsan,

For Respondent : Mr.M.Sarangan (R1 to R4 & R6)
Additional Government Pleader

: Mr.M.Karthikeya Venkatachalapathy
(R5)



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ORDER

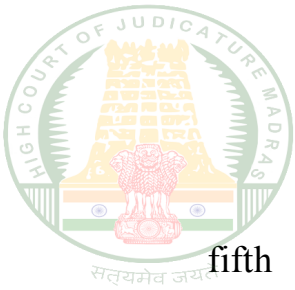
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[Order of the Court was made by S.M.SUBRAMANIAM, J.]

The Writ on hand has been instituted to direct the respondents to remove the unauthorised constitution/rice mill put up by the fifth respondent in S.No.83/3A, Thayanur Group Punganur Village, Srirangam Taluk, Tiruchirappalli District.

2.The learned Counsel for the petitioner would submit that the fifth respondent constructed a rice mill without obtaining building plan permission. The petitioner has given a complaint for removal of unauthorised construction. Since no action has been taken by the competent authorities, the present writ petition came to be instituted.

3.The learned Additional Government Pleader based on the written instructions would submit that the building was constructed without obtaining building plan permission. Therefore, the authorities are bound to initiate action for removal of unauthorized construction by following the procedures as contemplated under the relevant Act and Rules. The



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fifth respondent has admittedly constructed the building without obtaining building plan permission. Therefore, the authorities will initiate enforcement action under law.

4.The learned Counsel for the fifth respondent would strenuously oppose by stating that the fifth respondent submitted an application seeking building plan approval, which has been obstructed by the petitioner based on certain personal vengeance. Dispute exists among the fifth respondent, Panchayat President and the petitioner, which resulted in non-consideration of the application submitted by the fifth respondent for granting of building plan permission. Thus, the fifth respondent may be permitted to pursue the application and till such time, no action to be taken.

5.The learned Counsel for the fifth respondent admitted the fact that the building was constructed without getting a building plan permission. However the fifth respondent may submit an application under Section 135 of the Tamil Nadu Urban Local Bodies Act. However, he seeks that the said illegality can be cured by granting regularization.



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Therefore, the present writ petition is to be rejected.

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6.The learned Additional Government Pleader would oppose by stating that in the present case, the provisions of the Tamil Nadu Urban Local Bodies Act has no application since the subject building is falling under the provisions of Tamil Nadu Panchayat Act, 1994. The subject property is situated within the jurisdiction of Punganur Village Panchayat and thus, Tamil Nadu Urban Local Bodies Act has no application at all.

7.However, Section 135 of the Tamil Nadu Urban Local Bodies Act is an enabling provision which is to be applied in exceptional circumstances, which would not defeat the very purpose of the Act and Rules so as to ensure that the buildings are constructed after obtaining building plan permission from the competent authorities.

8.It is needless to say that conceptually under various provisions of the Act, it is reiterated that no building must be constructed without prior permission of the competent authority under the relevant provisions of

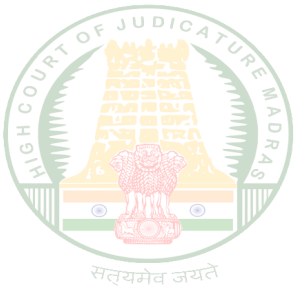


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the Act and Rules. Sub rule (1) to Rule 4 of Tamil Nadu Combined Development and Building Rules 2019 in unequivocal terms mandates that "no person shall carryout any development or construction of building or structure, Subdivision, layout, reconstitution or amalgamation of land or change of use of land or building without the written permission of the competent authority".

9.Rule 22 of the said Rules deals with illegal developments. It stipulates " if any construction or development is carried out illegally or in deviation to the plan approved, the competent authority shall take action against the constructions or developments as provided in the Act and in the Rules".

10.Pertinently, Section 56 of the Town and Country Planning Act reiterates where any development of land or building has been carried out without permission required under this Act, then such illegal or unauthorised developments must be demolished and the land must be restored in its original position. Section 56(1) and 56(2) of the Town and Country Planning Act reads as under:



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"56. Power to require removal of unauthorised development.

(1)Where any development of land or building has been carried out-

(a)without permission required under this Act; or

(b)in contravention of any permission granted or of any condition subject to which permission has been granted; or

(c)after the permission for development of land or building has been duly revoked; or

*(d)in contravention of any permission which has been duly modified, the appropriate planning authority may, within [***] [The words 'within three years of such development' was deleted by Act No. 61 of 2008 w.e.f.10/12/2008.]serve on the owner, a notice requiring him within such period, being not less than one month, as may be specified therein after the service of the notice, to take such steps as may be specified in the notice-*

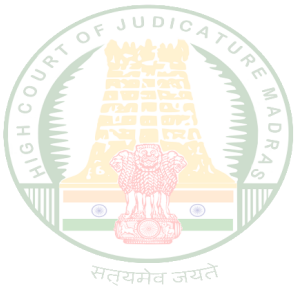
(i)in cases specified in clause (a) or (c) above, to restore the land to its condition before the said development took place;

(ii)in cases specified in clause (b) or (d) above, to secure compliance with the permission or with the conditions of the permission, as the case may be.

(2)In particular, any such notice may, for the purposes aforesaid, require -

(i)the demolition or alteration of any building or works;

(ii)the carrying out on land, of any building or other operations;



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(iii) the discontinuance of any use of land or building:

Provided that, in case the notice requires the discontinuance of any use of land or building, the appropriate planning authority shall serve a notice on the occupier also.

[(2-A) 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 subsection (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.] [section (2-A) inserted by Act No.61 of 2008 w.e.f.10.12.2008.]"

11.Holistic reading of Act and Rules applicable to urban and panchayat areas in the matter of unauthorised constructions would be sufficient to form an opinion that building constructions must be undertaken only after obtaining building plan permission from the competent authorities as stipulated in the applicable provisions of the Act and Rules. Regularization or condonation or otherwise are only enabling provisions and must be granted exceptionally in deserving cases where an injustice has been caused. However, regularization cannot be claimed

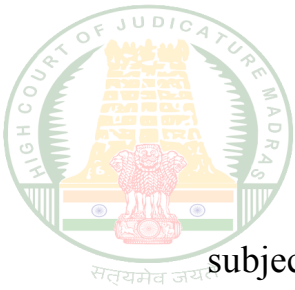


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as an absolute right. It is not a vested right since the Act contemplates that the building plan permission must be obtained prior to commencement of construction. That being the objectives of the statute, the same cannot be diluted by applying enabling provisions or the provisions applicable to deal with exceptional circumstances.

12.The issues relating to unauthorised constructions are no more *res integra* and the principles are well settled by the Hon'ble Supreme Court in recent judgments. The unauthorised and illegal constructions cannot be regularized in a routine manner by the authorities. The unauthorised constructions are posing danger to the public and causing environmental damages. Greedy men are emboldened to construct buildings unauthorisedly in urban areas and recently in rural areas, thereby, causing inconvenience to the neighbors and the road users in that locality. These greedy men are converting the fertile lands as concrete jungle, thereby, depriving other citizen to have peaceful living. Therefore, strict actions are contemplated and the inaction of the authorities at no circumstances be tolerated by the Courts. Authorities failing in their duty to deal with the unauthorised constructions, must be



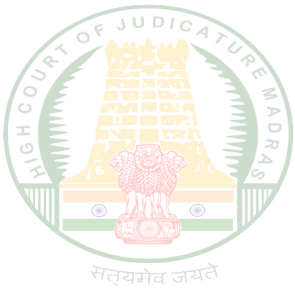
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subjected to departmental disciplinary proceedings since their inactions are resulting in dereliction of duty, negligence warranting prosecution.

13.Regularization is an exemption and can never be claimed as an absolute right. On the one hand the statute contemplates that a building plan permission must be obtained before commencement of building. Therefore, there cannot be any contra provision that such illegal unauthorised construction must be regularized. If such a principle is be applied it will result in an anomalous situation, where every person will put up construction unauthorisedly and thereafter submit an application to regularise and the very objective of the Act and Rules will be defeated.

14.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*** has issued directives *in rem* 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

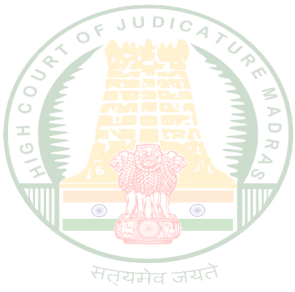


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construction must be made scrupulously following and strictly adhering to the Rules. In the event of any violation being brought to the notice of the Courts, it has to be curtailed with iron hands and any lenience afforded to them would amount to showing 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 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



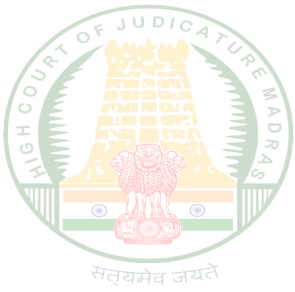
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implementation of the act are held accountable for their failure in performing statutory obligations, violations of this nature would go unchecked and become more rampant. If the officials are let scot-free, they will be emboldened and would continue 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 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.



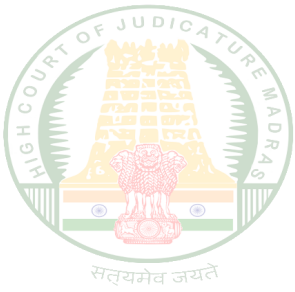
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(iii) Upon conducting personal inspection and being satisfied that the building is constructed in accordance with the building planning permission given and there is no deviation in such construction in any manner, the completion/occupation certificate 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 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



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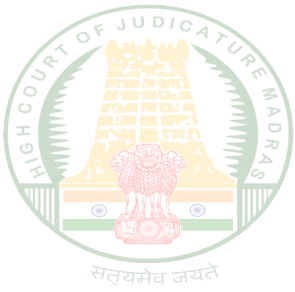
business/trade must be given by any authorities including local bodies of States/Union Territories in any unauthorized building irrespective of it being residential or commercial building.

(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 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



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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."

15.This Court also relied on the judgment of the Apex Court cited supra and issued directives to the authorities to ensure enforcement actions are initiated against all the unauthorized constructions irrespective of the fact that whether there is a complaint pending or not. The authorities are not expected to wait for the complaint from any



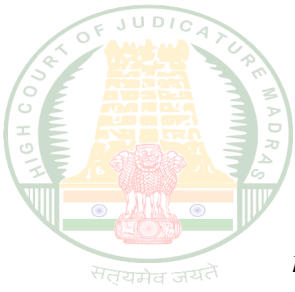
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person. They are duty bound to monitor the construction activities.

Field level officials must ensure that the buildings are constructed in accordance with the building plan permission and the violations are to be dealt with in accordance with law swiftly so as to avoid any further controversy. Such violations must be identified at the initial stage of construction, which would prevent financial and other loss to all concerned.

16. In continuation of the judgment in the case of ***Rajendra Kumar Barjatya and another Vs. U.P. Avas Evam Vikas Parishad and others*** cited supra, the Hon'ble Supreme Court again reiterated the principles in the case of ***Kaniz Ahmed Vs. Sabuddin and others*** reported in ***2025 INSC 610***, wherein, the directions *in rem* issued in the case of ***Rajendra Kumar Barjatya and another Vs. U.P. Avas Evam Vikas Parishad and others*** has been reiterated. The High Court in it is order in the case of ***Kaniz Ahmed Vs. Sabuddin and others*** issued the following directions:

“21. Therefore, the police authorities are directed to give notice to all the occupants to vacate the premises by themselves by April 30, 2025. If any of them still continued to

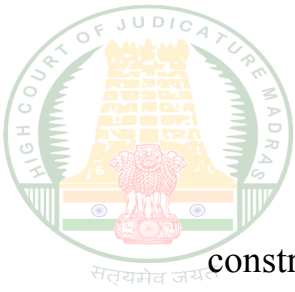


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remain in occupation, they shall be evicted by deployment of adequate police force and such process shall be completed by not later than May 16, 2025. After the three floors are vacated, the KMC authority shall initiate demolition proceedings for which also the police authorities shall deploy adequate police force and such demolition shall be completed and a report be filed before this Court supported by photographs on June 19, 2025. During the process of vacating the occupants of the building as well as during the process of demolition, the entire events shall be videographed and such cost shall be borne by KMC.

22. Needless to state that this writ petition being a public interest litigation, it goes without saying that not only the construction, which has been put up by the private respondents is to be dealt with, but the KMC authority should also cause inspection of all the neighbouring properties and if any violation is found, the above directions will apply mutatis mutandis to such constructions as well. Of course, action be taken after issuing notice to the owners/occupants of those properties”.

17.The High Court in its judgment has stated that the writ petition being a Public Interest Litigation, it goes without saying that not only the



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construction which has been put up by the private respondent is to be dealt with but the authorities should also cause inspection of all the neighboring properties and if any violation is found, the above directions will apply mutatis mutandis to such constructions as well. Of course action be taken after issuing notice to the owners/occupants of those properties. Pertinently, such directions were already issued by the Madras High Court in several judgments. Despite those judgments, the authorities remain mute spectators and the inaction continues. They are allowing the building owners to construct unauthorised construction indiscriminately, thereby, causing prejudice to the interest of the neighbors, road users and the citizen in general.

18.In this context, the Hon'ble Supreme Court reiterated that the Courts must adopt a strict approach, while dealing with the cases of illegal constructions and should not readily allow engage themselves in judicial regularization of building erected without requisite permission of the competent authority. The need for maintaining such a firm stand emanates not only from inviolable duty cast upon the Courts to uphold the rule of law but also such judicial restrain gains more course in order



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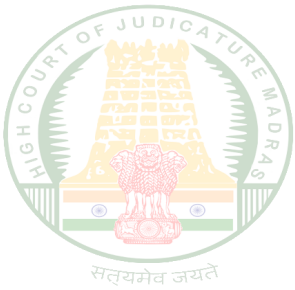
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to facilitate the wellbeing of all concerned. The law ought not to have come to rescue of those who flout its rigors as allowing the same might result in flourishing culture of impunity. If the law were to protect the ones, who endeavour to disregard it, the same would lead to undermine the deterrent effect of law, which is in corner stone of just and orderly society.

19. Pertinently, the Government of Tamil Nadu recently issued G.O.(2D).No.15, Municipal Administration and Water Supply Department, dated 01.03.2024, constituting High Level Monitoring Committee to curb and monitor the unauthorized constructions. The said order was issued in pursuance to the directives issued by the High Court functions. Functions of the High Level Monitoring Committee are as under:

"7. Functions of the above said High Level Monitoring Committee will be as follows:-

a. The Committee shall prepare a Urban Local Bodies level action plan for removal of the unauthorized constructions, unauthorized construction of multi-storied buildings and wrongful conversion of buildings into commercial purpose and for effective implementation of the various directions of the Hon'ble High Court as well as to



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monitor and prevent the violations under the relevant Acts / Rules and report to the Chairperson.

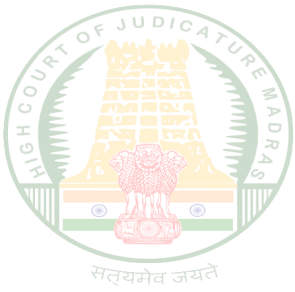
b. The relevant Acts / Rules and the processes under these acts shall be followed scrupulously while removing the unauthorized / deviated structures.

c. The Committee shall monitor the inspection of violated buildings, service of the notices for further enforcement proceedings, the mode of service of the notices, issuance of demolition and lock and seal order, maintenance of registers and submission of monthly report to the Chairperson.

d. The Committee shall meet once in a month and submit monthly report to Government."

20.It is not made clear by the respondents whether the High Level Monitoring Committee is initiating all appropriate actions as directed by the Government of Tamil Nadu. In essence, the efficient functioning of the High Level Monitoring Committee is not made clear before this Court. Unless the said Committee is made to function effectively, the very objectives of the directives issued by the Apex Court and the High Court will be futile exercise. In order to ensure effective implementation, it is necessary to implead the Chief Secretary to Government of Tamil Nadu, Fort St.George, Chennai - 9, as sixth respondent in the present writ petition.

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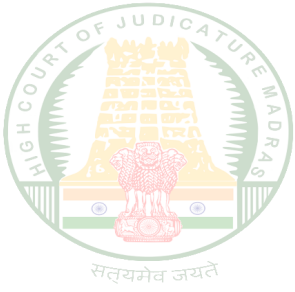
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21.Mr.M.Sarangan, the learned Additional Government Pleader takes notice for the newly impleaded sixth respondent.

22.The Chief Secretary to Government of Tamil Nadu shall ensure that the High Level Monitoring Committee meet once in a month as per the Government orders and submit a monthly report to the Government. The committee's functions must be periodically monitored by the Government and any inaction must result in an appropriate action against the authority who failed to implement the Government order and commit a dereliction of duty.

23.In the present writ petition, regarding the facts of the present writ petition, the respondents are directed to initiate enforcement action by following the procedures as contemplated under the Act and Rules and demolish the unauthorized constructions, if any, identified, within a period of eight weeks from the date of receipt of a copy of this order.



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24. With the above direction, this writ petition stands disposed of.

There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

25. Registry is directed to list the matter on **07.08.2025** for reporting compliance.

[S.M.S., J.] [A.D.M.C., J.]
10.06.2025

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

LR

To

1. The District Collector,
Tiruchirappalli District,
Tiruchirappalli.

2. The Tahsildar,
Srirangam Taluk,
Tiruchirappalli District.

3. The Block Development Officer,
Manikandam Union,
Tiruchirappalli District.

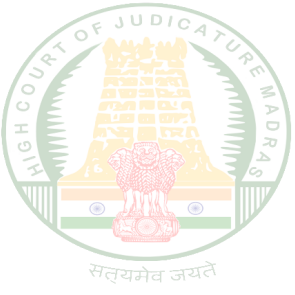
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4. The Village President,
Punganur Panchayat,
Tiruchirappalli.

5. The State of Tamil Nadu,
The Chief Secretary,
Fort St.George,
Chennai - 9.



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

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