



W.P.(MD)No.19103 to 19105 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 10.03.2026

CORAM:

**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

**W.P.(MD)Nos.19103 to 19105 of 2021
and
W.M.P.(MD)Nos.15861 to 15863, 15867 to 15869
& 15873 to 15875 of 2021**

G.Tamil Selvi

... Petitioner in
W.P.(MD)No.19103/2021

G.Sandhiya

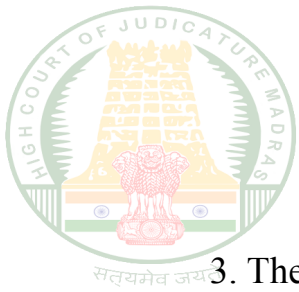
... Petitioner in
W.P.(MD)No.19104/2021

G.Anbarasan

... Petitioner in
W.P.(MD)No.19105/2021

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary,
Department of Housing and
Urban Development,
Fort. St. George, Chennai.
2. The Principal Secretary,
Department of Municipal Administration
and Water Supply,
Fort. St. George, Chennai.



W.P.(MD)No.19103 to 19105 of 2021

WEB COPY

3. The Director of Town and Country Planing,

O/o. the Director of Town and
Country Planning,
No.801, Anna Salai, Chennai.

4. The Deputy Director of Town Planning,
Tirunelveli Town Planning Authority,
Sivagangai District, Sivagangai

5. The Thirupuvanam Town Panchayat,
Rep by its the Executive Officer,
Thirupuvanam, Sivagangai District.

6. K.A.K.Poovanathan

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records pertaining to the impugned order in Na.Ka.No.88/2019/A2 dated 30.09.2021 on the file of the respondent No.5 and quash the same as illegal pertaining to the petitioners' property in Survey No.34/1C1, Thirupuvanam, Sivagangai District.

For Petitioner : Mr.T.Lajapathi Roy, Senior Counsel
(In all W.Ps) for M/s.Roy & Roy Associates

For Respondents : Mr.P.T.Thiraviam,
(In all W.Ps) Govt. Advocate for R1 to R4
Mr.S.P.Maharajan,
Spl. Govt. Pleader for R5
Mr.J.John for R6



W.P.(MD)No.19103 to 19105 of 2021

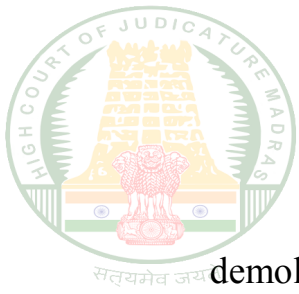
COMMON ORDER

WEB COPY (Order of the Court was made by **N.SATHISH KUMAR, J.**)

These Writ Petitions are filed challenging the impugned orders dated 30.09.2021, passed by the 5th respondent, cancelling the building permits granted to the petitioners under Building Permit Nos. 88/2020-2021, 187/2020-2021 and 186/2020-2021, based on the instructions of the Government Pleader.

2. The brief facts leading to the filing of these Writ Petitions are as follows:

The Writ Petitioners have constructed a building in Survey No. 34/1C1, Thirupuvanam, Sivagangai District, after obtaining the necessary building plan approval from the local authority. However, the 6th respondent has filed a Writ Petition before this Court in W.P.(MD)No. 18069 of 2016, for removal of the unauthorised construction in S.No. 34/1C1. The said Writ Petition was disposed of by this Court on 08.08.2017, directing the Executive Officer, Tiruppuvanam Panchayat, Tiruppuvanam, to initiate action in accordance with law for the



W.P.(MD)No.19103 to 19105 of 2021

WEB COPY

demolition of the unauthorised construction said to have been put up by the petitioners herein.

2.1. Pursuant to the said order, it was found that the petitioner in W.P.(MD) No.19103 of 2021 had constructed a building deviating from the original plan, with a deviation to the extent of 18.08 sq. ft. on the ground floor and the same extent on the first floor. Similarly, the petitioner in W.P.(MD)No.19104 of 2021, had constructed a building deviating from the original plan, with a deviation to the extent of 182.79 sq.ft and the petitioner in W.P.(MD)No.19105 of 2021, had constructed a building deviating from the original plan, with a deviation to the extent of 18.08 sq.ft on the ground floor and the same extent on the first floor. Therefore, the Executive Officer, Tiruppuvanam Panchayat, Tiruppuvanam, issued notices dated 29.11.2019 directing the petitioners to remove the unauthorised construction put up by them to the above extent. Challenging the said notices, the petitioners have filed Writ petitions in W.P.(MD)Nos.26690, 26692 & 26693 of 2019 and also sought for a direction to dispose of the retention applications filed by them under Section 49 of the Town and Country Planning Act, 1971.



W.P.(MD)No.19103 to 19105 of 2021

2.2. A co-ordinate Bench of this Court, by common order dated

13.12.2019, directed the authorities to consider the retention applications filed by the petitioners. Pursuant to the said directions, the Additional Chief Secretary to Government, Municipal Administration and Water Supply Department in its order dated 11.12.2020, has held that the retention applications are not maintainable in Government level and they have to be filed before the competent authority viz., the Executive Officer of Thirupuvanam Town Panchayat and therefore, directed that necessary planning permission may be obtained from the concerned authority by filing Retention Applications in this regard. Pursuant to the said order dated 11.12.2020, the Writ Petitioners have filed retention applications before the Executive Officer, Thirupuvanam Town Panchayat and he has granted building permission vide its order dated 22.03.2021. Later, the 6th respondent has filed a contempt petition in Cont.P.(MD)No.1048 of 2021. Thereafter, the impugned orders came to be passed by the 5th respondent on 30.09.2021 cancelling the Building permits granted to the petitioners on 22.03.2021. Challenging the said orders, these Writ Petitions have been filed.

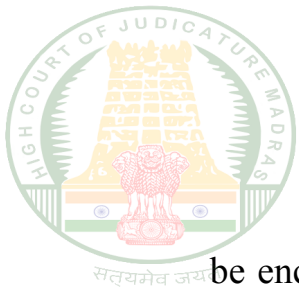


W.P.(MD)No.19103 to 19105 of 2021

WEB COPY

3. The learned Senior Counsel appearing for the petitioners would submit that though the 5th respondent had initially granted the building permits, merely on the basis of the contempt petition filed by the 6th respondent, the impugned orders have been passed without application of mind, cancelling the said permits. He would further submit that once the building permits have been granted, the same cannot be cancelled based on the instructions of the Government Pleader. Therefore, the impugned orders are liable to be set aside.

4. The learned counsel appearing for the 6th respondent would submit that the 6th respondent has already filed a suit in O.S.No.60 of 2014 for declaration and permanent injunction. He would further submit that there were violations in the construction of the buildings and, therefore, building permissions cannot be granted. In support of his contention, he has relied upon a judgment of the Hon'ble Supreme Court in ***Rajendra Kumar Barjatya and another Vs. U.P.Avas Evam Vikas Parishad and others in Civil Appeal No.14604 of 2024***, wherein it has been held that constructions 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 plan approval, cannot



W.P.(MD)No.19103 to 19105 of 2021

WEB COPY

be encouraged. In the present cases, since there were deviations, the 5th respondent has correctly cancelled the building permits granted to the petitioners and hence, prays for dismissal of these Writ Petitions.

5. After hearing the parties, we have perused the entire materials available on record.

6. On perusal of the records, it is seen that the petitioner in W.P. (MD) No.19103 of 2021 has violated the approved plan and extended the building area by 18.18 sq. ft. on the ground floor and first floor. Likewise, the petitioner in W.P.(MD) No.19104 of 2021 has violated the approved plan and extended the building area by 18.18 sq. ft. on the ground floor and first floor. The petitioner in W.P.(MD) No.19105 of 2021 has violated the approved plan and extended the building area by 182.76 sq. ft. They have also filed retention applications and the same have been considered by the 5th respondent and fresh building permissions have been granted vide order dated 22.03.2021. Later, the building permits have been cancelled through the impugned orders, on the ground that an opinion has been obtained from the Government Advocate. We are of the view that the impugned orders were passed



W.P.(MD)No.19103 to 19105 of 2021

without application of mind. Merely at the instance of someone, and without any legal backing, the order of regularisation of the building cannot be cancelled at the instance of third parties. Though there was no provisions for regularisation under the Town and Country Planning Act, 1971, the authorities, in fact, has considered the same and given fresh permissions under Building Permit Nos.88/2020-2021, 187/2020-2021 and 186/2020-2021. In such view of the matter, as the deviation has been set right, the same ought not to be cancelled merely at the instance of an opinion said to have been given by the Government Pleader. Further, the impugned orders do not indicate the nature of the opinion given by the Government Pleader. Therefore, the impugned orders, in our view, are nothing but a clear non-application of mind and they cannot stand with legal scrutiny. Therefore, the same are liable to be quashed.

7. Though much emphasis has been laid by the learned counsel appearing for the 6th respondent that the buildings have to be demolished, it is relevant to note that the 6th respondent has set up a rival claim and has already filed a civil suit in O.S. No. 60 of 2014 for declaration and permanent injunction. He had also filed interlocutory applications in I.A. Nos.109 and 110 of 2014, which were dismissed, and the issues have



W.P.(MD)No.19103 to 19105 of 2021

already attained finality up to this Court in C.R.P. (MD) No. 33 of 2017.

WEB COPY

Therefore, at this stage, the 6th respondent cannot raise objections to the alleged unauthorised constructions.

8. In view of the above, we are of the considered view that the impugned orders cannot be sustained in the eye of law and are therefore liable to be set aside. Accordingly, the impugned orders are set aside.

9. With the above observations, these Writ Petitions are allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[N.S.K., J.] & [M.J.R., J.]
10.03.2026

Index :Yes/No
NCC :Yes/No
vsm



WEB COPY



W.P.(MD)No.19103 to 19105 of 2021

N.SATHISH KUMAR, J.
AND
M.JOTHIRAMAN, J.

vsm

To

1. The Secretary,
State of Tamil Nadu
Department of Housing and Urban Development,
Fort. St. George, Chennai.
2. The Principal Secretary,
Department of Municipal Administration
and Water Supply,
Fort. St. George, Chennai.
3. The Director of Town and Country Planning,
O/o. the Director of Town and
Country Planning, No.801, Anna Salai, Chennai.
4. The Deputy Director of Town Planning,
Tirunelveli Town Planning Authority,
Sivagangai District, Sivagangai
5. The Executive Officer,
Thirupuvanam Town Panchayat,
Thirupuvanam, Sivagangai District.

W.P.(MD)Nos.19103 to 19105 of 2021

10.03.2026

10/10