

REV.APLC.W.(MD)No.29 of 2023 and batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2026

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CORAM

THE HONOURABLE MR.JUSTICE **C.V. KARTHIKEYAN**

and

THE HONOURABLE MR.JUSTICE **R.SAKTHIVEL**

REV.APLC.W.(MD)No.29 of 2023

in

W.P.(MD)No.23772 of 2022

and

W.M.P.(MD)No.2149 of 2023

and

W.M.P.(MD)No.3233 of 2023

in

REV.APLC.W.(MD)SR.No.10345 of 2023

and

W.M.P(MD)SR.No.8398 of 2023

in

W.P(MD)No.23772 of 2022

REV.APLC.W.(MD)No.29 of 2023:-

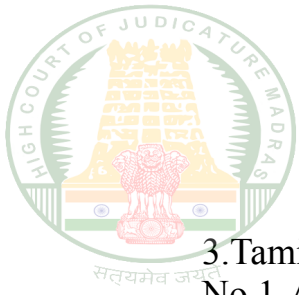
T.D.Raja

... Applicant

vs.

1.G.Shanmugasundar

2.The Principal Secretary to Government,
Housing & Urban Development Department,
Government of Tamil Nadu, Chennai- 600 009.



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3. Tamil Nadu Real Estate Regulatory Authority,
No.1-A, 1st Floor, CMDA Tower-II,
Gandhi Irwin Bridge Road, Egmore,
Chennai- 600 008.

4. The Director,
Directorate of Town and Country Planning,
Chengalvarayan Building,
4th Floor, 807, Anna Salai,
Chennai- 600 002.

5. The Deputy Director,
Town and Country Planning-Trichy Region,
Kajamalai Main Road, Kajamalai,
Trichy- 620 023.

6. The Superintending Engineer,
Trichy Electricity Distribution Circle/Metro,
TANGEDCO, Mnnarpuram, Trichy.

7. The Commissioner of Police,
Tiruchirappalli City, Trichy.

8. The Commissioner,
Tiruchirappalli Corporation, Trichy.

9. The Executive Engineer (Planning),
Tiruchirappalli Corporation, Trichy.

10. The Assistant Commissioner,
Ko.Abishekapuram Zone,
Tiruchirappalli City Corporation, Trichy.

11. The Inspector General of Registration,
Registration Department, Santhome, Chennai.



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12.The Sub Registrar,
Sub Registrar Office- Woraiyur,
Woraiyur, Trichy.

13.G.Balasubramaniyan

14.A.Asraf Ali

... Respondents

PRAYER: Review Application is filed under Section 114 of CPC r/w Order 47 Rules 1 and 2 and CPC to review the direction contained in Para 19(iii) of the judgment, dated 11.01.2023 of this Court in W.P. (MD)No.23772 of 2022 relating to payment of compensation etc., to the flat buyers by the Review Petitioner.

For Applicants :No Appearance
For R3 :No Appearance

W.M.P.(MD)No.29 of 2023 in REV.APLC.W.(MD)SR.No.10345 of 2023:-

1.Silambuselvan

2.R.Saravanan

3.B.Shanmugadevi

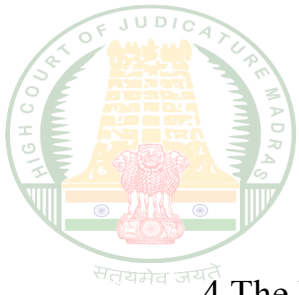
... Petitioners in both cases

vs.

1.G.Shanmugasundar

2.The Principal Secretary to Government,
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Secretariat, Chennai- 600 009.

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7.The Commissioner of Police,
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Ponnamaravathi Taluk,
Pudukottai District.

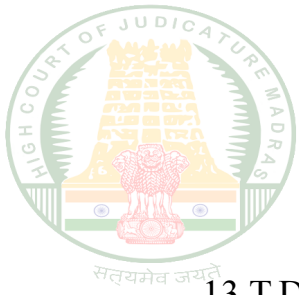
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13.T.D.Raja

14.G.Balasubramaniam

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... Respondents in both cases

PRAYER in W.M.P.(MD)No.3233 of 2023:- Writ Miscellaneous Petition has been filed under Article 226 of the Constitution of India to grant leave to the petitioner to prefer review petition in W.P.(MD)No.23772 of 2022, dated 11.01.2023.

PRAYER in REV.APLC.W.(MD)SR.No.10345 of 2023:- Writ Miscellaneous Petition has been filed under Order 47 Rule 1 of CPC r/w Section 114 of CPC to review order, dated 11.01.2023 made in W.P. (MD)No.23772 of 2022 on the file of this Court.

For Petitioners	:Mr.P.Ganapathi Subramanian
For R1	:Mr.T.Senthil Kumar
	for Mr.S.Sarvagan Prabhu
For R2	:Mr.S.I.Muthiah
	Additional Government Pleader
For R4 and R5	:Mr.M.Kannan
	Special Government Pleader
For R8, R9 and R10	:Mr.Kishore Ram
	for M/s.R.B.Law Associates
For R11 and R12	:Mr.K.K.Udayakumar
	Government Advocate (civil side)



REV.APLC.W.(MD)No.29 of 2023 and batch

W.M.P.(MD)SR.No.8398 of 2023:-

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1.Y.Jansirani

2.S.Sivakumar Babu

3.C.Dharmaraj

4.S.Meenakshi

5.M.Pushpalatha

... Petitioners in both cases

vs.

1.G.Shanmugasundar

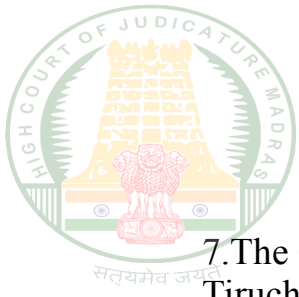
2.The Principal Secretary to Government,
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8.The Commissioner,
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9.The Executive Engineer (Planning),
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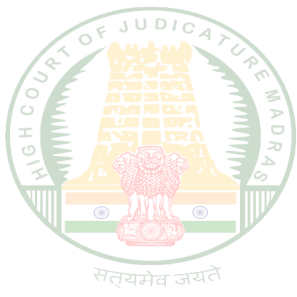
13.T.D.Raja

14.G.Balasubramaniyan

15.Asraf Ali

... Respondents in both cases

PRAYER: Writ Miscellaneous Petition is filed under Article 226 of the Constitution of India to stay the execution of eviction notice, dated 21.01.2023 bearing Na.Ka.No.687/2020/Ap1/Ko.Abi, still providing an alternative accommodation by the promoter/builder.



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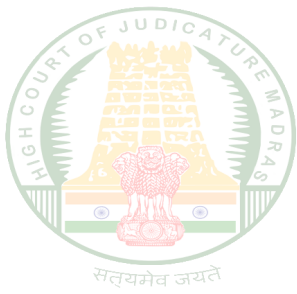
For Petitioners :Mr.J.Selvin Rajesh
for M/s.Dictum Law Firm
For R1 :Mr.T.Senthil Kumar
for Mr.S.Sarvagan Prabhu

COMMON ORDER

(Order of this Court was made by **C.V. KARTHIKEYAN, J.**)

The Review Application in Rev.Aplc.W(MD)No.29 of 2023 has been filed by a third party to the Writ Petition in W.P.(MD)No.23772 of 2022, seeking review of the order, dated, 11.01.2023 passed by a Coordinate Division Bench.

2.The said Writ Petition had been filed in the nature of a Mandamus seeking initiation of action to demolish unauthorised construction of apartments in land measuring 51.08 cents situated in Old S.No.151/2 and New Town S.No.98/1 and 2 of Ward J, Block No.14 of Uyyankondan Thirumalai Village, Srirangam Taluk, Tiruchirappalli and to restore the building to the original approved plan and to initiate appropriate disciplinary action against the officials, who had not taken any action against the unauthorised construction.



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3.In the said Writ Petition, four impleading applications had been filed and were also considered during the course of the order by the Division Bench. The impleading applications were as follows:

1)W.M.P.(MD)No.19723 of 2022 filed by Chandur Ganesh Flat Owners Welfare Association represented by President, P.Rajaraman;

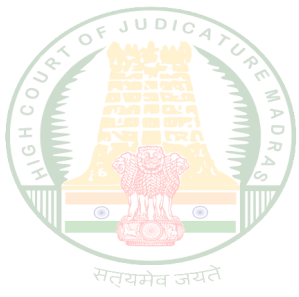
2)W.M.P.(MD)No.18822 of 2022 filed by P.Rajaraman in his individual capacity;

3)W.M.P.(MD)No.20974 of 2022 filed by N.Vivek; and

4)W.M.P.(MD)No.20144 of 2022 filed by Y.Jansi Rani.

4.In the Writ Petition, the Division Bench taken note of the fact that impleading applications had been filed and had stated as follows:

“9.During the pendency of this writ petition, some of the purchasers of the flats and the President of Chendur Ganesh Flat Owners Association have preferred miscellaneous petitions to implead themselves as parties to the writ petition. According to the learned counsel for the impleading Petitioners, the petitioners herein / members of the association



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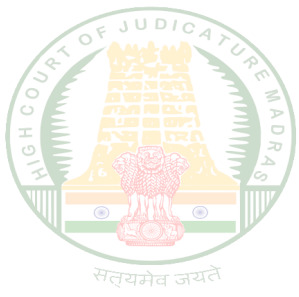


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are the innocent purchasers and they purchased the flats, after scrutinising the title deeds and also physical inspection of the subject building. The banks sanctioned loan and directly transferred the amount to the 14th respondent, power of attorney of 13th respondent. The impleading petitioners under the bona fide impression that the property is free from all encumbrances, purchased the same out of their hard earned money. Even in the pamphlets issued by the 14th respondent, it was asserted that the project in question was approved by all major banks. Therefore, necessary action has to be taken against the respondents and the bank officials and government officials involved in the conspiracy at the behest of the respondents 12 to 14. Stating so, the learned counsel submitted that any adjudication in the present writ petition will have an adverse impact on the right of the impleading petitioners, who have innocently purchased the apartments in question and hence, the same has to be considered, while passing any order herein.

5.It is, thus, seen that the Division Bench was aware of the stand taken by the impleading applicants. Thereafter, it had been further observed as follows:

“13.2.Since the aforesaid order has not been complied with by the respondent authorities, the petitioner initiated the



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contempt proceedings viz., Cont.P.(MD)No.314 of 2019.

During the pendency of the same, the 12th respondent / promoter continued further construction without obtaining planning permission afresh. Therefore, the petitioner preferred another writ petition in WP(MD) No.1422 of 2020, to stop such illegal unauthorized construction and this court has passed an interim order on 21.08.2020, after having observed thus:

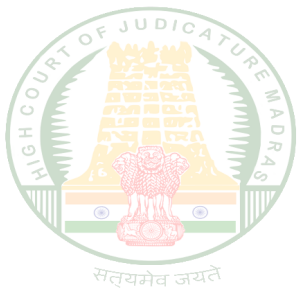
“8. A perusal and consideration of the materials would prima facie disclose that deviated construction has been made and if at all, the respondents 3, 7 and 8 would have been vigilant, they would have stopped the said construction when it took place and unfortunately, they chose to turn a blind eye to the said alleged violation.

9. Call on 27.08.2020. Counter affidavits of the respondents with supporting documents and photographs by then. The counter affidavits of respondents 7 and 8 shall also contain the answers to the following queries:

“(a) How many unauthorised/deviated superstructure utilised for commercial purposes, have been put up within the limit of jurisdiction of Tiruchirapalli City Municipal Corporation?

(b) Action taken against the said violators as well as the time line/ gap in which, the action has been taken; and

(c) Mechanism which is put in place to monitor the ongoing constructions for the purpose of finding out as to



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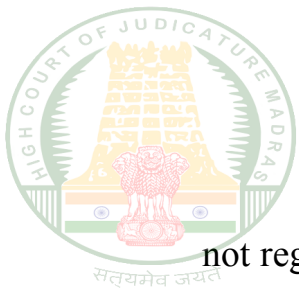


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*whether the said constructions were authorised /
unauthorised / deviated."*

6.It was observed that the promoter had filed an appeal before the Government under Section 113 of the Tamil Nadu Town and Country Planning Act, 1971, to rectify the deviations in the building and also had made representation to TNRERA, which is a competent authority, under Section 59 of RERA Act. It was further observed that the promoter had constructed four storeys building consisting of 92 flats in deviation of the approved plan. The car parking area and common area were converted into commercial areas. The EB transformer was situated in a place contrary to the original planning permission. He had also encroached on the Highways Road. The Division Bench had directed the officials to remove the unauthorised construction and to restore the building to its original planning permission in March 2018 itself.

7.It had been further observed that the promoter had failed to obtain revised planning permission and continued further unauthorized construction and sold apartments to third parties. The building was also



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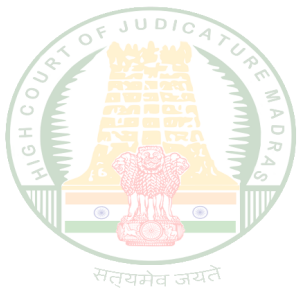
not registered and the land owners/power of attorney holders had also not registered the project, as required in G.O.Ms.No.166, Housing and Urban Development [UD4(3)] Department, dated 29.11.2018. The officials also did not act in accordance with the provisions of the Tamil Nadu Town and Country Planning Act, 1971. The action to remove unauthorised construction was kept pending.

8.The Division Bench had again issued directions to remove the unauthorized constructions. The Division Bench finally held as follows:

“19.Therefore, considering the facts and circumstances of the case and keeping in mind the aforesaid legal proposition, this court, to meet the ends of justice, issues the following directions to the respondent authorities:

(i)to demolish the unauthorised construction, if not demolished earlier and restore the subject building including EB transformer, according to the plan approval granted by the competent authority, forthwith, without causing further delay.

(ii)to take departmental action against the officials, if not taken earlier, who have failed to take steps against the unauthorised construction made by the promoter or anyone claiming under him. Such action shall be completed within a period of six months.



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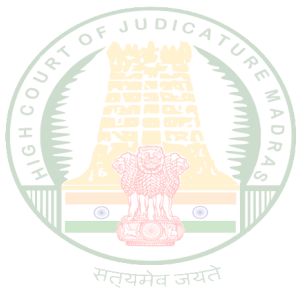


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(iii)The 12th respondent or the promoter is directed to pay necessary compensation / alternative accommodation to the buyers of the flats, within a period of six weeks.”

9.With respect to the impleading applications, they were also disposed consequent to the directions issued.

10.One of the petitioners in the impleading applications, namely, in W.M.P.(MD)No.19723 of 2022, without disclosing that they had filed an impleading applications, which had been disposed of by the Division Bench along with final orders passed in the Writ Petition, had later preferred S.L.P.(Civil) Diary No.4712 of 2023 before the Honourable Supreme Court. They raised a grievance before the Honourable Supreme Court that they were not impleaded as a party respondent and if the directions in the Writ Petition were to be implemented, their rights would be directly infringed and jeopardized. To reiterate, they had not disclosed that they had actually filed an impleading application. Their arguments had actually been heard; and orders had been passed in the Writ Petition and in the impleading applications.



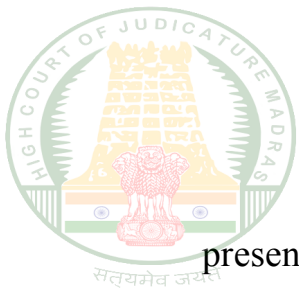
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11. On the basis of the representation made that they were not impleaded as parties in the Writ Petition and also on the further submission that they had filed an interim application before the High Court to afford them an opportunity of hearing, the Honourable Supreme Court while disposing of the aforementioned S.L.P.(Civil) Diary No.4712 of 2023, had further ordered as follows:

“After hearing the learned counsel for the petitioners, we consider it appropriate to observe that let the judgment impugned dated 11.01.2023 be kept in abeyance and the High Court may consider their application on merits.

The impugned Judgment shall be given effect to only after the outcome of the application filed at the instance of the present petitioners.”

12. A careful perusal of the records show that no such application, as represented before the Honourable Supreme Court, had been filed by the applicant before this Court. There is no application pending on records. There is no application available on records. A misleading statement has been made before the Honourable Supreme Court. The



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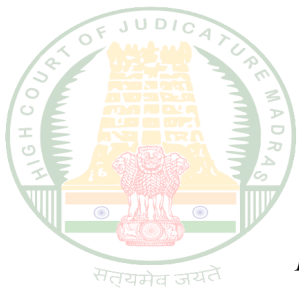
present Review Application has been filed by one of the flat owners, who claimed that he had purchased a flat from the promoter, namely, M/s.Chendur Homes Private Limited. Similar flat owners had filed impleading applications and their stand had been considered and rejected. The same stand is again repeated in the present Review Applications.

13.Section 114 of the Code of Civil Procedure provides for Review against a decree or order from which an Appeal can be preferred but had not been preferred. Order XLVII of the Code of Civil Procedure provides for review of a Judgment.

14.In (1997) 8 SCC 715 [*Parsion Devi and Others Vs. Sumitri*

Devi and Others], the Hon-ble Supreme Court has held as follows:~

”9.Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be “reheard and corrected“. A review petition, it must be remembered has limited



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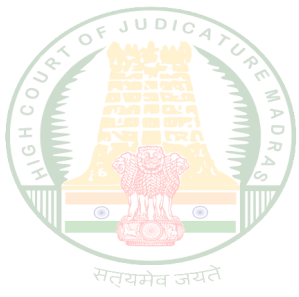
purpose and cannot be allowed to be “an appeal in disguise.

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10. Considered in the light of this settled position we find that Sharma, J. clearly overstepped the jurisdiction vested in the court under Order 47 Rule 1 CPC. The observation of Sharma, J. that “accordingly”, the order in question is reviewed and it is held that the decree in question is reviewed and it is held that the decree in question was of composite nature wherein both mandatory and prohibitory injunction were provided” and as such the case was covered by Article the scope of Order 47 Rule 1 CPC. There is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected by the higher forum, the later only can be corrected by exercise of the review jurisdiction. While passing the impugned order, Sharma, J. found the order in Civil Revision dated 25.4.1989 as an erroneous decision, though without saying so in so many words. Indeed, while passing the impugned order Sharma, J. did record that there was a mistake or an error apparent on the face of the record which not of such a nature, “Which had to be detected by a long drawn process of reasons” and proceeded to set at naught the order of Gupta, J. However, mechanical use of statutorily sanctified phrases cannot detract from the real import of the order passed in exercise of the review jurisdiction. Recourse to review petition in the facts and circumstances of the case was not permissible. The aggrieved judgment debtors could have approached the higher forum through appropriate proceedings, to assail the order of Gupta, J. and get it set aside but it was not open to them to seek a “review of the order of petition. In this view of the matter, we are of the opinion that the impugned order of Sharma, J. cannot be sustained and accordingly accept this appeal and set aside the impugned order dated 6.3.1997.”

15.In (2008) 11 SCC 107 [T.Thimmaiah (dead) by Lrs. Vs.

Venkatachala Raju (dead) Lrs.], the Hon-ble Supreme Court has held as follows:~



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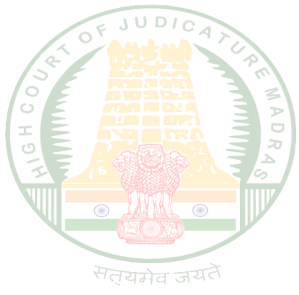
“2.During the course of hearing, the learned counsel for the appellant has pointed out that a bare perusal of the order in review would reveal that it is based on a complete reappraisal of the matter on facts and the provisions of Order 47 Rule 1 of the Code of Civil Procedure which would govern an application for review, have been completely ignored. It has been submitted by the counsel that the Single Judge had, in the first Judgment, examined the facts and dismissed the appeal and on a reconsideration of the same facts, had allowed the same, which was not justified. We find merit in this plea. From a bare perusal of the Judgment in review, it is clear that the principles laid down under Order 47 Rule 1 CPC have been completely ignored. We accordingly allow the appeal, set aside the order in review dated 26.2.2001 and dismiss the appeal in the suit. We, however, give liberty to the respondent herein to challenge the Judgment dated 16.2.1999, if so advised.”

16.In (2018) 4 SCC 587 [Sivakami and Others Vs. State of Tamil

Nadu and Others], the Hon-ble Supreme Court has held as follows:~

“18.The scope of the appellate powers and the review powers are well defined. The power of review under Order 47 Rule 1 of the Code of Civil Procedure, 1908 is very limited and it may be exercised only if there is a mistake or an error apparent on the face of the record. The power of review is not to be confused with the appellate power. The review petition/application cannot be decided like a regular intra court appeal. On the other hand, the scope of appeal is much wider wherein all the issues raised by the parties are open for examination by the Appellate Court.

19. A fortiori, what was not decided in appeal by the Division Bench could not be decided by the Division Bench while deciding the review application. It is for this reason, we are also constrained to set aside the review order.”

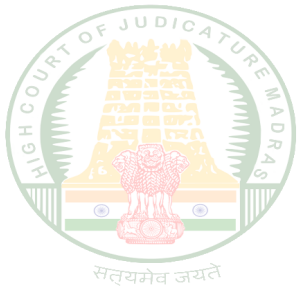


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17. Additionally, the petitioners are third parties to the Writ Petition and seeks indirectly the order to be appealed and the order to be examined as an appellate forum. We cannot convert this Bench as an appellate forum over the order of the Division Bench. Their rights had been examined; their rights had been determined and orders have been passed. Misleading statements have been presented before the Honourable Supreme Court. We are not inclined to accede to the request to review the order. Therefore, the Review Applications are liable to be dismissed.

18. W.M.P.(MD)SR.No.8398 of 2023 in W.P.(MD)No.23772 of 2022 had been filed to stay the operation of the execution of the eviction notice issued by the 10th Respondent in the said petition, dated 21.01.2023. The same is rejected, as we cannot sit as an appellate authority and grant stay of an order of the Coordinate Division Bench.



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19.In fine,

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1)REV.APLC.W.(MD)No.29 of 2023 in W.P.(MD)No.23772 of 2022 stands dismissed;

2)W.M.P.(MD)No.3233 of 2023 in REV.APLC.W.(MD)SR.No. 10345 of 2023 stands dismissed and consequently, REV.APLC.W. (MD)SR.No.10345 of 2023 is rejected at SR stage itself;

3)W.M.P(MD)SR.No.8398 of 2023 in W.P(MD)No.23772 of 2022 stands rejected at SR stage itself;

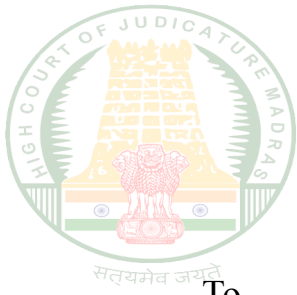
4)There shall be no order as to costs; and

5)Consequently, connected miscellaneous petition is closed.

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

cmr

[C.V.K., J.] [R.S.V., J.]
14.08.2026



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To
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1.The Principal Secretary to Government,
Housing & Urban Development Department,
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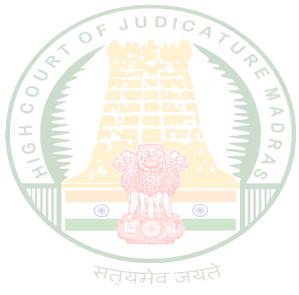
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4.The Commissioner of Police,
Tiruchirappalli City, Trichy.

5.The Inspector General of Registration,
Registration Department, Santhome, Chennai.

6.The Sub Registrar,
Sub Registrar Office- Woraiyur,
Woraiyur, Trichy.



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Case Citation: (2026) ibclaw.in 4956 HC



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C.V. KARTHIKEYAN, J.

AND

R.SAKTHIVEL, J.

cmr

REV.APLC.W.(MD)No.29 of 2023,
REV.APLC.W.(MD)SR.No.10345 of 2023
and
W.M.P(MD)SR.No.8398 of 2023

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