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Do not regularise illegal buildings: HC

Encroachment of public spaces cannot be allowed: judges

The Madras High Court on Thursday said the State government must attempt to remove illegal constructions and encroachments in public places such as road, parks and Open Space Reserve area, instead of regularising them.

“As observed by the Supreme Court in many cases, the authorities cannot and shall not regularise the Open Space Reserve and set-backs, as they are like lung spaces of the area, which needs to be protected and restored,” a Bench comprising Justices M. Venugopal and S. Vaidyanathan said.

The observations were made while the court was disposing of a case relating to an unauthorised construction of a shop, D.R. Super Market and Furniture in Red Hills. The petitioners, D. Rajappa and R. Jayalakshmi, sought the removal of lock and seal on their property so that they could apply for regularisation.

The Bench said, “The petitioners having been unsuccessful in

several rounds of litigations and are trying to take everyone for a ride, including this court, as could be seen from the facts narrated below. This court will not perpetuate the illegality.”

The judges said the authorities had found that the building had a number of violations, even after providing a revised plan under the provisions of the Tamil Nadu Town and Country Planning Act. “The petitioners were heard and it was found that the entire building is in violation and that earlier, the appellate authority rejected the appeal,” the Bench said.

The petitioners initially approached a Division Bench, which dismissed the writ petition and ordered the demolition of the unauthorised construction in October 2006.

“The matter was taken to the Supreme Court, which rejected the request of the present petitioners,” the court said. Following this, the petitioners sought relief under a G.O. of the Housing and Urban Development department in June 2017, for regularisation. But, it said the petitioners “are not entitled to seek indulgence of this court”.

The Bench also said “it is very unfortunate that the Government being a party to a civil appeal, is trying to give a go-by of the Supreme Court order” and directed the authorities to immediately demolish the illegal building failing which disciplinary action and penalty would be imposed.