

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI  
AND  
THE HON'BLE MR.JUSTICE K.K. SASIDHARAN

W.A. No.1277 of 2015

and

M.P. No.1 of 2015

B. Mangilal

...Appellant

vs.

1 N. Janakiraman alias Mohan Sai

2 The Chief Executive Officer  
St. Thomas Mount-cum-Pallavaram  
Office of Cantonment Board  
St. Thomas Mount  
Chennai - 600 016

...Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent  
challenging the order dated 05.03.2015 passed in W.P. No.20755 of  
2014.

Prayer :

Petition filed under Article 226 of the Constitution of India,  
praying to issue a Writ of Mandamus, direct the respondent to take  
necessary steps under Section 320 of the Cantonment Act 2006 to remove  
or demolish the building at No.104 Butt Road (Bazaar Road) St.  
Thomas Mount Chennai-600 016 for the safety of the life of the  
nearby occupants of the above said premises in compliance to the  
notice issued by respondent dated 11.12.2013 under section 297 of the  
Cantonment Act 2006.

For appellant : Mr. B. Vijay  
For R1 : Ms. Bargavi  
for Mr. R. Prabhakaran  
For R2 : Mr. C. Mohan  
for M/s. King & Partridge

JUDGMENT  
(delivered by SATISH K. AGNIHOTRI, J.)

The instant intra-Court appeal arises from the order dated 5<sup>th</sup> March 2015 passed in W.P. No.20755 of 2014.

2 For the sake of brevity, clarity and convenience, the parties are referred to as per their rank in the instant appeal.

3.1 The admitted facts in nutshell, leading to the filing of the instant intra-Court appeal are that the first respondent filed the instant writ petition seeking a writ of mandamus directing the second respondent to take necessary steps under Section 320 of the Cantonment Act, 2006 (for short "the Act") to remove or demolish the building at No.104, Butt Road, (Bazaar Road), St. Thomas Mount, Chennai 600 016, for the safety of the life of the nearby occupants of the said premises, in compliance of the notice dated 11<sup>th</sup> December 2013 issued by the second respondent under Section 297 of the Act. The said writ petition was disposed of as under:

"4. In the light of the above, impugned notice cannot be enforced as against the petitioner and accordingly, the same is quashed. However, this order will not prevent the first respondent from proceeding against the second respondent in the manner known to law.

5. The writ petition is disposed of with the above direction. No costs."

3.2 Feeling aggrieved by the aforesaid order, the tenant has preferred the instant intra-Court appeal.

4 Today, when the matter is taken up for hearing, the learned counsel for the appellant submits that in view of the common order dated 28<sup>th</sup> August 2015 passed by a learned Single Judge in W.P. Nos.18399 and 25945 of 2015 (B. Mangilal vs. Chief Executive Officer,

St. Thomas Mount cum Pallavaram, O/o Cantonment Board, St. Thomas Mount, Chennai 600 016 and another), the instant intra-Court appeal has become infructuous and as such, be dismissed as not pressed.

5 Having regard to the fact situation, the appellant is granted time till 31<sup>st</sup> December 2015 to vacate the premises, subject to the condition that he furnishes an undertaking to the second respondent to the effect that he shall vacate the premises peacefully, without creating any third party interest or encumbrance in the property in question, within a period of two weeks from today.

6 This intra-Court appeal stands disposed of accordingly. No costs. Connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

cad

To

The Chief Executive Officer  
St. Thomas Mount-cum-Pallavaram  
Office of Cantonment Board  
St. Thomas Mount  
Chennai - 600 016

1 CC to the Government Pleader, SR.No. 49643

1 CC to Mr.R. Prabhakaran, Advocate SR.No. 49415

1 CC to M/s. King & Partridge, Advocate SR.No. 49365

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VSN (CO)  
PSI (11/09/2015)