

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:05/08/2015

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THE HON'BLE MR.JUSTICE N.KIRUBAKARAN

Writ petition No.16286 of 2015

Moinuddin Sheriff

...Petitioner

Vs.

- 1.The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai-600 003.
- 2.The Zonal Officer,
Zone No.II, Division No.30,
Corporation of Chennai,
Chennai.
- 3.The Divisional Engineer,
Zone No.II, Corporation of Chennai,
Chennai.

... Respondents

Prayer: The writ petition is filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus to the respondents to demolish the building situate at New Door No.97, Old Door No.36, Godown Street, Chennai-600 001 as the same is in a ruinous state, imminently dangerous to the inmates and dangerous to the passers-by and take suitable action under the provisions of the Chennai City Municipal Corporation Act, 1919.

For Petitioners : Mr.Satishparasaran
For Respondents : Mr.P.V.Selvakumar

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O R D E R

The petitioner has come before this Court seeking Writ of Mandamus directing the respondents to demolish the building situated in New Door No.97, Old Door No.36, Godown Street, Chennai-600 001, contending that it is in ruinous condition.

2. Heard the learned counsel appearing for the petitioner. The learned counsel appearing for the petitioner would submit that the building is in dilapidated condition and a notice has been issued by the Corporation Authority. Moreover, Rent Control proceedings have already been initiated against the tenants, who are in occupation of the premises, in R.C.O.P.No.1820 of 2009 and it is seen that as many as 36 tenants are residing there. Since, the petitioner's building is in dilapidated condition, the petitioner has approached this court.

3. Admittedly the petitioner rightly approached the Small Causes Court namely, Rent Controller, invoking Tamil Nadu Buildings (Lease and Rent Control) Act by filing R.C.O.P.No.1820 of 2009. The petitioner is not in occupation of the building and he only requires the vacant possession of the premises so that he can demolish and reconstruct the same. It would show that he indirectly prays for the relief what he could not achieve directly. Approaching this Court under Article 226 of the Constitution of India, it is nothing but, misuse of the Provision of Law. When an alternative remedy is available and there is a Statute to safeguard the interest of the persons who are in occupation and already Rent Control proceedings were initiated, filing of Writ Petition seeking the above prayer without impleading the tenants, amounts to misuse of Provisions of Law. Hence, the petition is liable to be dismissed. Though heavy cost has to be slapped, due to judicial restraint, this court does not incline to impose any costs.

4. The writ petition is dismissed. No costs. Consequently the connected M.P.No.1 of 2015 is also dismissed.

5. In view of pendency of R.C.O.P.No.1820 of 2009 for the past six years, it is appropriate to direct the learned Judge, XVI Small Causes Court, Chennai, to dispose of the same on or before 30th September 2015. No necessity to serve notice to the tenants, as no prejudice would be caused to them by issuance of the above said direction.

सत्यमेव जयते

-s/d-
Assistant Registrar

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Sub-Assistant Registrar

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To

1.The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai-600 003.

2.The Zonal Officer,
Zone No.II, Division No.30,
Corporation of Chennai,
Chennai.

3.The Divisional Engineer,
Zone No.II, Corporation of Chennai,
Chennai.

4.The Judge,
XVI small Causes Court
Chennai-104

+1 cc to M/S.Satish Parasaran Advocate sr.40561

+1 cc to M/S.P.V.SelvaKumar Advocate sr.40566

W.P.No.16286 of 2015

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