

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2015

CORAM

THE HONOURABLE MR.JUSTICE N. KIRUBAKARAN

W.P.No.29372 of 2015
and
M.P.No1 of 2015

1.P.R.Chandren
2.P.Baskaren
3.R. Anbarasu
4.R.Ebinesar
5.S. Jenammal
6.K.K.Nishil
7.P. Shanthi
8.Palani
9.Mohan
10.C.U.Suresh
11.L.Mohan
12.M.Madhi

...Petitioners

Vs.

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

2.The Deputy Commissioner,
Corporation of Chennai,
Chennai 600 003.

3.The Executive Engineer,
Zone VIII, Corporation of Chennai,
183, Periyar EVR High Road,
Kilpauk, Chennai 600 010.

4.The Assistant Engineer,
Zone VIII, Corporation of Chennai,
183, Periyar EVR High Road,
Kilpauk, Chennai 600 010.

5.The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Chennai 600 008.

6. The Inspector of Police,
V-1, Villivakkam Police Station,
Villivakkam, Chennai 600 049.

7. J. Balasubramaniam

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to demolish the dilapidated building situated in No.6/17, 3rd street, Lakshmipurak, Villivakkam, Chennai 600 049, belong to the 7th respondent based on the petitioner's representation dated 17.06.2015 and consequently direct the 6th respondent to provide adequate protection to the common public.

For petitioners : Mr.M.Kempuraj
For RR1 to RR4 : Mr. P.V.Selvakumar
For RR5 : Mr.K. Rajasrinivas
For RR6 : Mrs.M.E.Raniselvam
Additional Government Pleader
For RR7 : Mr.T.Santhakumar
Advocate Commissioner : Mr.M.Dharanidharan

O R D E R

By consent of both parties, this writ petition is taken up for final disposal in the admission stage itself.

2. Writ Petition is filed for issuance of a Writ of Mandamus directing the respondents to demolish the dilapidated building situated in No.6/17, 3rd street, Lakshmipurak, Villivakkam, Chennai 600 049, belong to the 7th respondent based on the petitioner's representation dated 17.06.2015 and consequently direct the 6th respondent to provide adequate protection to the common public.

3. Heard both sides.

4. The petitioners and the neighbours of the property bearing No.6/17, 3rd street, Lakshmipurak, Villivakkam, Chennai - 600 049, belonging to the seventh respondent. The said property is in dilapidated condition and therefore, it may cause danger to the petitioners and the families, who are all neighbours. Photographs have been produced to show the

current condition of the building and a notice dated 28.11.2014 under Section 258 of the Madras City Municipal Corporation Act IV of 1919 was also issued to the owner of the premises. However, it has not been demolished and removed. Therefore, the petitioner sent a representation dated 17.06.2015 to the respondents directing the respondents 1 to 6 to demolish the dilapidated condition building to the seventh respondent. Since no action has been taken so far, the petitioner is before this Court.

5. When the matter was taken up on 18.09.2015, this Court had a doubt as to whether any third party tenant is in possession of the property and when moving the said party/parties or tenant/tenants, the petitioners approached this Court.

6. This Court, appointed Mr.M.Dharanidharan, as an Advocate Commissioner to visit the property and to file a report about the condition of the building. The Advocate Commissioner made an inspection on 24.10.2015 in the presence of the parties and he found that no one is in occupation of the property and the building is in a very dilapidated condition.

Paras 9 and 11 of the report filed by the Advocate Commissioner is extracted as follows:

9. Over all on my inspection I concluded the facts as follows:

a) The building was too old and presently in a dilapidated condition and need to be demolished.

b) The building's first and second floors ceiling was already fallen down and gave more weight to the Ground floor ceiling.

c) The building was not maintained for more than 10 years.

d) The building is in -capable to reside for anyone and presently no one is residing in the building.

e) The iron rods which was used for ceiling and sunshades gave more endanger to common public while crossing the street.

f) A small dump of Rubbish waste from the very same building was presently kept in the front side of the building which

create nuisance to the passers on the street.

g) The building is in a conjunction area and the children are playing on street and very near to this building also.

h) A part of the northern side sunshade in the first floor was fallen down to the adjacent neighbour's compound wall and damaged the same.

11. I finished my visit by 05.45 pm with the presence of petitioner's counsel, 1st and 7th respondents counsel and common public from the nearby residents. I concluded that the building is in dilapidated condition and need to demolish as earliest. There is no doubt to me the building is endanger to the tress-passers, children and also the common public who are in nearby area with the building.

Hence, the warrant is duly executed as per the directions of this Hon'ble Court therein.

Therefore, it is prayed that this Hon'ble Court may be pleased to record this report as per the warrant issued by this Hon'ble Court and thus render justice.

Dated at Chennai this the 27th day of October, 2015.

7. It is also evident from para-5 of the Advocate Commissioner's report that Mr. N. Sekar, Engineer, Corporation of Chennai has also assisted the Advocate Commissioner during inspection.

8. The petitioners seek a direction to demolish and for which the seventh respondent has also got no objection as evident from paras-4 & 5 which are extracted as follows:

9. On 24.10.2015 with prior information, accordingly, the inspection commenced on 24.10.2015 at 04.15 p.m at the 7th respondent's property situated in No.6/17, 3rd street, Lakshmipuram, Villivakkam, Chennai-600 049, in the presence of the Counsels and respective parties and the same was ended at 05.45 p.m.

10. In the last paragraph, he only seeks time to demolish the building. In view of the same, the petitioner is directed to demolish the existing building as per law within a period of one month so that the safety of petitioners' neighbours would not be in danger.

The seventh respondent has to demolish the building in the presence of the Corporation office.

11. ADDITIONAL REMUNERATION:

Since the report filed by the Advocate Commissioner is very much useful to this Court to dispose of the matter and for the work done by the Advocate Commissioner needs to be appreciated and for that purpose, an additional remuneration of Rs.20,000/- (Rupees Twenty Thousands only) is directed to be paid by the petitioners as well as by the seventh respondent in the following ratio within a period of one week.

Petitioners -Rs.12,500/- (Rupees Twelve Thousand Five Hundred only)

Seventh respondent - Rs.7,500/- (Rupees Seven Thousand only)

With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

gv

To

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

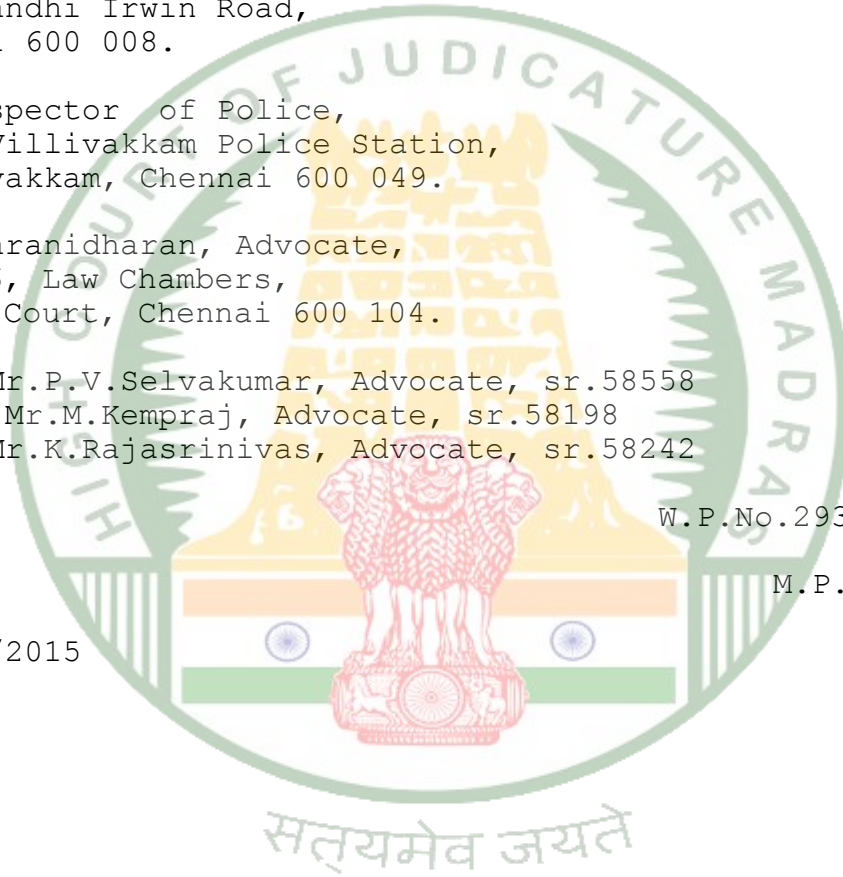
2.The Deputy Commissioner,
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- 5.The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Chennai 600 008.
6. The Inspector of Police,
V-1, Villivakkam Police Station,
Villivakkam, Chennai 600 049.
- 7.Mr.M.Dharanidharan, Advocate,
No.36, Law Chambers,
High Court, Chennai 600 104.

+1 cc to Mr.P.V.Selvakumar, Advocate, sr.58558
+2 ccs to Mr.M.Kempuraj, Advocate, sr.58198
+1 cc to Mr.K.Rajasrinivas, Advocate, sr.58242

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