

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2015

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.38417 of 2015
and M.P.No.1 of 2015

K.Rengarajan .. Petitioner

Vs

1.The Commissioner,
Sirkazhi Municipality, Sirkazhi,
Nagapattinam District.

2.M.Syed Ali
3.T.Baskar
4.L.Kasiviswanathan
5.S.Sheik Ummar
6.M.A.Sirajudeen
7.T.Thirughanasambanda Moorthy @ Amudhan
8.S.Syed Sulthan
9.M.Mani

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 1st respondent to demolish the petitioner's building situated in S.No.406/6, E.V.R.Street, Sirkazhi Town, Nagapattinam District, by complying with the 1st respondent order in his proceedings Na.Ka.No.3804/2009/F-1 dated 19.09.2014.

For Petitioner : Mr.C.Prakasam

For Respondent 1 : Mr.R.Vijayakumar

Additional Government Pleader

ORDER

Heard Mr.C.Prakasam, learned counsel appearing for the petitioner and Mr.R.Vijayakumar, the learned counsel appearing for the first respondent and by their consent, the Writ Petition is taken up for final disposal.

2. The petitioner is the owner of the building situated in S.No.406/6, E.V.R.Street, Sirkazhi Town, Nagapattinam District, consisting of several shops and would state that the respondents 2 to 9 are his tenants. Admittedly civil proceedings are pending before the District Munsif Court,

Sirkali in O.S.No.252 of 2014, in which the first respondent-Municipality is the second defendant and the petitioner is the first defendant. Thus, it appears that this Writ Petition has been filed as a indirect means to evict the tenants. Therefore, the prayer sought for to issue a positive direction to demolish the building cannot be granted, since there are tenants in the property, and, there is a civil dispute between the petitioner and the respondents 2 to 9. Any orders for demolition could be done only after the first respondent takes a definite stand before the Civil Court about the condition of the building.

3. Therefore, this Court does not want to make any observation. Leaving it open to the petitioner to move before the Civil Court for appropriate relief by filing an interlocutory application etc., the Writ Petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ds

To

The Commissioner,
Sirkazhi Municipality, Sirkazhi,
Nagapattinam District.

+1 cc to M/s.C.Prakasam Advocate sr.65829
+1 cc to M/S.R.Vijayakumar Advocate sr.65807

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