

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. Nos.40561 &40612 of 2015 &
connected M.Ps

Iqbaldeen .. Petitioner in W.P.40561/2015
M.Sardhaz .. Petitioner in W.P.40612/2015

Vs

- 1 The Commissioner
Coimbatore Corporation
Coimbatore
.. R1 in both W.Ps.
- 2 M.Sarathaj @ Sarathaj Mohammed
.. R2 in WP.40561/15
- 3 J.AshikRukhan
.. R3 in WP.40561/15
4. S.Iqbaldheen ... R2 in WP.40612/15

PRAYER IN WP.40561/2015: Petition filed Under Article 226 of the Constitution of India praying to issue Writ of certiorarified Mandamus to call for the records pertaining to the proceedings dated 25.11.2015 served on 5.12.2015 made in the Na.Ka. No unknown of 2015 on the file of the 1st respondent herein, quash the same consequently direct the 1st respondent to permit the petitioner to carry on the commercial activities in his building at Site No.1169, Big Bazar Street, Coimbatore.

PRAYER IN WP.40612/2015: Petition filed Under Article 226 of the Constitution of India praying to issue Writ of Mandamus to direct the first respondent herein to take further proceedings based on the representations of the petitioner dated 04.12.2015 and 08.12.2015 in carrying out demolition of the building bearing D.No.1169, Ward No.82, Central Mandalam, Big Bazar Street, Coimbatore 641 001, in view of the notice in Na.Ka.No.Nil/2015/H-1 dated 25.11.2015. .

For Petitioner : Mr.R.Prabakar

(in WP.40561/15)

(in WP.40612/15)

Mr.G.Arul Murugan

For Respondents : Mr.K.Mahesh - R1
(both WPs)

(WP.40561/15) : Mr.G.Arul Murugan - R2

(WP.40612/15) : Mr.R.Prabakar -R2

C O M M N O R D E R

Heard Mr.R.Prabakar, learned Counsel appearing for the petitioner in W.P.No.40561/2015 and second respondent in W.P.No.40612/2015, Mr.G.Arul Murugan, learned counsel for the petitioner in W.P.No.40612/15 and 2nd & 3rd respondents in W.P.No.40561/15 and Mr.K.Mahesh, learned counsel appearing for the respondent Corporation and with their consent the Writ Petitions are taken up for final disposal.

2.The petitioner in W.P.No.40561 of 2015 is the tenant in respect of the premises owned by the respondents 2 & 3. The second respondent in W.P.No.40561 of 2015 has filed an independent Writ Petition being W.P.No.40612 of 2015, wherein he has sought for a direction to the Commissioner of Coimbatore Corporation to consider his representations dated 04.12.2015 and 08.12.2015 and demolish the building, on the ground that it is in dilapidated condition.

3.Admittedly, a civil litigation is pending between the parties and they are not in consensus with each other and the learned counsel for the tenant would contend that the landlord has resorted to this procedure seeking to demolish the building with a view to illegally evict him along with other tenements from the premises.

4.The learned counsel for the landlord submits that recently one portion of the building had collapsed and therefore, the landlord was justified in requesting the Corporation for demolishing the premises after seeing Engineer's report.

5.The learned Standing counsel appearing for the Corporation submits that after inspection was conducted, notice has been issued and there is likelihood that the building would collapse at any moment and it is in dilapidated condition.

6.This submission was stoutly denied by the learned counsel appearing for the tenant, by contending that the building in

question was constructed only in 2001 and that the landlord has recently filed an Application for fixation of fair rent in respect of the adjoining shop.

7.Be that as it may, when the Corporation is of the view that there is likelihood of the building being collapsed, then they are entitled to take action in accordance with law. From the photographs produced by the tenant in page No.48 of the typed set of papers, which shows the frontage of the building and the inside shop, it prima facie appears that the building is not in such a bad condition. However, this Court cannot render any finding on this aspect, moreso, when the parties are logger heads before the Civil Court.

8.In the light of the above, a direction is issued to the Officials of the Coimbatore Corporation to inspect the building in question, after notice to the landlord and the petitioner and other tenants of the premises and in their presence make appropriate assessment of the structural stability of the building and thereafter proceed in accordance with law. The above direction shall be complied with, within a period of six weeks from the date of receipt of a copy of this order. Till then, the status quo which is prevailing as on date (22.12.2015) shall be maintained.

The Writ Petitions are disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

rpa
To

1 The Commissioner
Coimbatore Corporation
Coimbatore

+1 cc to Mr.D.R.Arunkumar, Advocate, sr.69714
+1 cc to Mr.K.Mahesh, Advocate, sr.69242
1 cc to M/s. G. Arul Murugan, Advocate, sr. 69397 (6.1.2016)

W.P. Nos.40561 & 40612 of 2015

tej co
kra 06.01.2016