

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P. No.27658 of 2016

R.Subramanian

... Petitioner

Vs

1.The District Collector,
O/o. The District Collector,
District Collectorate,
Coimbatore - 641 018.

2. The Commissioner,
The Coimbatore City Municipal Corporation,
Coimbatore - 641 001.

3. The Member Secretary,
City Planning Committee,
Coimbatore - 641 012.

... Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India for issue of Writ of mandamus directing the 2nd Respondent to consider the representation dated 04.07.2016 for grant of permission for demolition of the part of the building situated in Door No.87, 87/1, 88-91, 92-93, Sakthi Complex, T.S. No.9/86/2, Cross Cut Road, (Ponne Gounder Road), Gandhipuram, Coimbatore.

For Petitioner : Mr.R.Amardeep

For Respondents : Mr.T.M.Pappiah
Special Govt. Pleader
for R1 & R3
Mr.K.Magesh
for R2

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O R D E R

The petitioner is the owner of the property bearing Door No.87, 87/1, 88-91, 92, 93, 111 - 113, Sakthi Complex, comprised in T.S. Nos. 9/86/2, Cross cut Road (Ponne Gounder Road), Gandhipuram, Coimbatore. According to him, the building was constructed during the year 1952 and some works carried out in the year 1990.

2. The building consists of Ground + three (3) floors. The structural condition of the building is below average and endanger the occupants of the building and therefore he got opinion from a registered engineer on 15.06.2016. On 04.07.2016, the petitioner made representation to the respondents for demolition under the Coimbatore City Municipal Corporation Act. Since the said representation has not been taken into consideration and no order has been passed, the petitioner has come before this Court.

3. Mr.R.Amardeep, learned counsel for the petitioner would submit that under Section 286 of the Coimbatore City Municipal Corporation Act, when the building is in dilapidated condition and it is likely to proceed danger to the occupants, the Corporation, at its discretion can issue demolition notice and in this regard only, the petitioner has given a representation.

4. Heard Mr.T.M.Pappiah, learned Special Government Pleader appearing for first & third respondents and Mr.K.Magesh, learned counsel appearing for the second respondent.

5. There is no document to show the petitioner has put construction in the year 1952. Merely based on a will dated 18.08.1994 and petitioner's Chartered Engineers Report dated 15.06.2016, the petitioner has given a representation to the second respondent seeking permission for demolition.

6. To a query as to whether the petitioner alone is in possession of the properties, it is represented that the petitioner as well as other tenants are in occupation of the building. The said fact is not disclosed in the writ petition. For suppression of material facts and non-impleading of necessary parties, the writ petition is liable to be dismissed.

7. Assuming for a moment that if the building is in dilapidated condition and further it is occupied by the tenants, the normal course is to approach the Rent Control Authorities under the provisions of Tamil Nadu Building and Rent Control Act under the ground demolition and re-construction. By invoking the provisions of Coimbatore City Municipal Corporation Act, it seems a short cut method is sought to be used by the owners who are unable to get rid of the tenants. When there is a specific statute enacted by the legislature to safeguard the interest of the tenants as well as landlords, the petitioner cannot invoke the General Act to get a quicker remedy. Even otherwise, if the petitioner is bonafide in approaching this court, he should have disclosed the occupation of the building by other tenants and they should have been properly made as parties. Without doing that, behind the back of the tenant, an attempt has been made by the petitioner to get an order against them. Therefore, it has

to be deprecated. Viewing from any angle, the representation given by the petitioner cannot be considered by the respondent and therefore the petition fails.

8. In the result, this Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The District Collector,
District Collectorate,
Coimbatore - 641 018.

2. The Commissioner,
The Coimbatore City Municipal Corporation,
Coimbatore - 641 001.

3. The Member Secretary,
City Planning Committee,
Coimbatore - 641 012.

+1cc to Mr.K.Magesh, Advocate Sr.45306

+1cc to the Government Pleader sr.45588

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lrs[co]
srg 30/08/2016

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