IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.29058, 29059 & 28831 to 28837 of 2017
and
WMP.Nos.31290 to 31293 & 31044 to 31057 of 2017

D.Govindaraj .. Petitioner
(in WP.No.29058 of 2017)

M.Radhakrishnan .. Petitioner
(in WP.No.29059 of 2017)

S.Kalayana Sundram .. Petitioner
(in WP.No.28831 of 2017)

M.Radhakrishnan .. Petitioner
(in WP.No.28832 of 2017)

M.Sarangapani .. Petitioner
(in WP.No.28833 of 2017)

S.Mohamed Rafi .. Petitioner
(in WP.No.28834 of 2017)

M.Fackrudeen .. Petitioner
(in WP.No.28835 of 2017)

M.Sathiqual Ameen .. Petitioner
(in WP.No.28836 of 2017)

P.Manikkaraj .. Petitioner
(in WP.No.28837 of 2017)

Vs.

1. The Commissioner
Villupuram Municipality
Villupuram.

2. The Revenue Inspector
Villupuram Municipality
Villupuram.

3. The Revenue Officer
Villupuram Municipality
Villupuram.

.. Respondents
(in WP.Nos.29058, 29059 & 28831 to 28837 of 2017)

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the proceeding of 1st respondent urgent notice bearing in No.Na.Ka.No.7098/2014/A5 dated 02.11.2017 quash the same and thereby direct the respondents not to interfere in the peaceful possession and enjoyment of the petitioners business shop bearing Shop No.3 / Tax Assessment No.87, Shop No.9 / Tax Assessment No.95, Shop No.1 / Tax Assessment No.85, Shop No.8 / Tax Assessment No.93, Shop No.2 / Tax Assessment No.86, Shop No.7 / Tax Assessment No.91, Shop No.10 / Tax Assessment No.94, Shop No.6 / Tax Assessment No.90, Shop No.8 / Tax Assessment No.92, respectively, Old Bus Stand Complex, West Neruji Road, Villupuram Municipality, Villupuram.

For Petitioner : Mr.P.Kannan
For Respondents : Mr.P.Srinivas

COMMON ORDER

The petitioners have come forward with the aforesaid writ petitions, calling for the records of the proceedings of the 1st respondent's notice bearing No.Na.Ka.No.7098/2014/A5 dated 02.11.2017 and quash the same and thereby direct the respondents not to interfere with the peaceful possession and enjoyment of the petitioners business in their shops, bearing Shop No.3 / Tax Assessment No.87, Shop No.9 / Tax Assessment No.95, Shop No.1 / Tax Assessment No.85, Shop No.8 / Tax Assessment No.93, Shop No.2 / Tax Assessment No.86, Shop No.7 / Tax Assessment No.91, Shop No.10 / Tax Assessment No.94, Shop No.6 / Tax Assessment No.90, Shop No.8 / Tax Assessment No.92, respectively, Old Bus Stand Complex, West Neruji Road, Villupuram Municipality, Villupuram.

2. According to the petitioners, they have shops in the Old Bus Stand Complex, West Neruji Road, Villupuram Municipality, under the tenancy of the 1st respondent and they have been paying the rent regularly without any default. However, the 1st respondent has issued a notice in Na.Ka.No.7098/2014/A5 dated 02.11.2017, calling upon the petitioners to vacate the shops stating that the building is in dilapidated condition. According to the petitioners, the building is in good condition and the respondents are indirectly trying to evict the petitioners on the ground that the building is in dilapidated condition and it

has got to be demolished and re-constructed. Hence the petitioners have come forward with these petitions for the reliefs stated supra.

3. A common counter has been filed by the 1st respondent stating that the said building was constructed in the year 1967 and it has suffered extensive damage due to usage and vagaries of nature and the building is unstable and parts of the building have already collapsed. According to the respondent, the entire shops in the 1st floor was already vacated due to the dilapidated condition of the building. In spite of the best efforts taken by the respondents to repair and maintain its stability, it could not be done. According to the respondent, the life of the building has crossed its expectancy and due to the cyclonic storm in the year 2013, a part of the 1st floor collapsed and causing grave concern.

4. The Officials of the Municipality and other Executing Engineer have inspected the site and directed to demolish the building, in which the petitioners have shops. The shops are situated in the old bus stand, which is a busy commercial area and that there are lots of vehicular movement apart from pedestrians who are passerby and the 1st respondent being the local authority under the Tamil Nadu District Municipalities Act, 1920 is bound to take action against the dangerous structure that exist in the Municipality Area under Section 218 of the said Act.

5. It is not the intention of the respondents to demolish the building, if it is in a good state as lot of investment has already been done when the building was constructed. As more than 50 years have gone by from the date of the construction of the building, now the building is likely to cause hazard to the passerby and even to the occupants, and hence notice has been issued for demolition. The respondent has produced paper cuttings, which show that the building has suffered damage and it is likely to cause injury to the passerby and others. The photographs produced by the respondent and petitioner would clearly show that the structure of the building is in a dilapidated condition. Though some of the photographs produced by the petitioners show that their shops are in good condition, it is very clear the that petitioners have done false roofing and kept it clean for the purpose of running their business and it does not mean that the building is not in a dilapidated condition.

6. Heard both sides and perused the materials available on record.

7. When the matter is taken up for hearing, this Court has expressed a view that the petitioners will have to vacate the shops in view of the condition of the building, more particularly, after the statements made by the respondent and photographs produced by the petitioners and respondents. The petitioners have submitted that they will vacate the premises within four months and requested that the petitioners may be alloted a shop in that place, in the event of demolition and reconstruction of the shopping complex and they have filed affidavits to that effect.

8. In reply, Mr.Srinivasan, learned counsel appearing for the respondents would submit that previously there was a practice of allotting shop to the erstwhile tenants but such practice is not there. In view of the G.O.(2D) No.85, Municipal Administration and Water Supply (Na.Ni.4), dated 19.07.2000 and the Tamil Nadu Transparency in Tenders Act, they have to issue tender and the persons who come out as successful bidders will be entitled to occupy the premises. Based on the auction conducted, the successful persons will be given allotment.

9. In view of the facts discussed supra and the fact that the building is in dilapidated condition, the respondents should give four months time to vacate the premises from today. If any of the petitioners seek for extension of time to vacate the shop, the time granted by this Court will automatically be withdrawn and the petitioners are deemed to have vacated the premises, and the Municipality will remove the belongings found in the premises and they are not responsible for damage of any of the belongings of the petitioners. If commercial complex is constructed and other things being equal, the petitioners shall be given preference with regard to the allotment of shop in the complex and that the petitioners shall pay the rent / lease amount that may be fixed by the respondents on that date.

10. With the above observation and direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed. Till such time the premises are vacated / evicted, if any untoward incident happens, the petitioners shall take responsibility for the Civil and Criminal actions, after paying compensation to the affected persons.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

pvs

To:
1. The Commissioner
Villupuram Municipality
Villupuram.

2. The Revenue Inspector
Villupuram Municipality
Villupuram.

3. The Revenue Officer
Villupuram Municipality
Villupuram.

+9cc to Mr.P.Kannan, Advocate Sr.Nos.80656,80657,80649,
80650,80651,80652,80653,80654,80655

+1cc to Mr.P.Srinivas Advocate Sr.No.80878

MR(CO)
sm:10.1.2018

W.P.Nos.29058, 29059 & 28831
to 28837 of 2017