

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.17583 of 2018
and WMP.No.20861 of 2018

1. Dr.R.Gowthaman
 2. A.B.Rajendran
 3. K.Joghee
 4. M.G.Srinivasan
- ...Petitioners

Vs.

1. The Regional Director of Municipal Administration,
Thirupur.
 2. The Commissioner,
Cunnoor Municipality,
Cunnoor,
Nilgiri District.
- ...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the 2nd respondent dated 09.07.2018 in Na.Ka.No.A4/670/2016 and quash the same as illegal and direct the respondents to consider the representation of the petitioners dated 18.04.2018 on merits and in accordance with law.

For Petitioners: Mr.A.Arulmozhi

For Respondents: Mr.V.Shanmuga Sundar, Spl.G.P., for R1
Mr.P.Srinivas, Standing Counsel, for R2

ORDER

Heard the learned counsel for the petitioners, the learned Special Government Pleader for the first respondent and the learned Standing Counsel for the second respondent and perused the materials available on record.

2. This writ petition has been filed challenging the order of the second respondent dated 09.07.2018, thereby, the petitioners were directed to vacate the premises within a period of three days.

3. The learned counsel for the petitioners submitted that the petitioners have been in possession of the premises as sub-tenants for more than 20 years and paid rent regularly. It is further submitted that the time provided by the second respondent was too short and they are ready to vacate the premises within a reasonable time.

4. Per contra, the learned Standing Counsel for the second respondent submitted that the building in question was constructed in the year 1952 and the original tenant one Mr. Badrudeen without consent of the Municipality had put up additional constructions and let out them to the third parties. Challenging the eviction proceedings initiated in the year 1993, he approached the Civil Court and the litigation reached finality only after dismissal of the second appeal S.A.No.80 of 2005 in the year 2014. It is further argued by the learned counsel that the technical committee in the year 2009 found that the building was not stable and requires demolition, but no further action was taken due to the pendency of the second appeal.

5. The learned counsel for the respondents, on instructions from Mrs. R. Saraswathi, the Commissioner of Coonoor Municipality, who is also present in the Court today, submitted that the building is in a dilapidated condition and due to the recent incessant rain in Western Ghats, there is an imminent danger in permitting the occupants and the building may collapse at any time and if any such incident takes place, the respondent-Municipality would be held responsible.

6. In reply, the learned counsel for the petitioners submitted that the condition of the building is not so bad and the petitioners need at least three months time to vacate the premises and in the meanwhile, if anything happened, they are ready to take the responsibility. The petitioners have filed an undertaking affidavit seeking three months time to vacate the premises.

7. However, considering the fact that the building is in a dilapidated condition, the petitioners are directed to vacate the premises and hand over the possession to the second respondent-Municipality, on or before 15.09.2018. In the meantime, if any untoward incident happens, the petitioners would be held responsible. This order applies only to the petitioners and in respect of other occupants / sub-tenants, who

have not assailed the eviction order, the respondent shall take action forthwith.

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

9. It is represented that the present Commissioner, Coonoor Municipality, Mrs.R.Saraswathi, who assumed the office recently, has taken swift action in the larger interest of the public. The action of the Commissioner is commendable and this Court places on record its appreciation.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

pvs

To

1. The Regional Director of Municipal Administration,
Thirupur.

+5cc to Mr.A.Arulmozhi, Advocate, S.R.No.47806

+1cc to the Government Pleader, S.R.No.48530

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AK(CO)
GSP(07/08/2018)

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