

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.18095 of 2018
and W.M.P.No.21374 of 2018

Shaikh Mohammed Bakurudeen ... Petitioner

Vs.

The Commissioner,
Coonoor Municipality,
Coonoor.

...Respondent

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records in notice dated 10.07.2018 on the file of the respondent and quash the same as illegal and unreasonable and direct the respondent to allow the petitioner to carry on business.

For Petitioner : Mr.A.Thiyagarajan, Senior Counsel
for M/s.D.Veerasekaran

For Respondent : Mr.P.Srinivas

ORDER

Heard Mr.A.Thiyagarajan, learned Senior Counsel appearing for M/s.D.Veerasekaran, learned counsel for the petitioner and Mr.P.Srinivas, learned Standing Counsel for the respondent and perused the materials available on record.

2. This writ petition has been filed to issue a writ of certiorarified mandamus to quash the order of the respondent dated 10.07.2018, thereby petitioner was directed to vacate the premises.

3. The learned Senior Counsel for the petitioner argued that the petitioner is a lessee, whereas the impugned notice has been issued, treating him as an encroacher. It is further submitted that the time provided by the respondent was too short and he is ready to vacate the premises within a reasonable time.

4. Per contra, the learned Standing Counsel for the respondent submitted that the building in question was constructed in the year 1952 and the petitioner, who is the lessee, without consent of the Municipality had put up additional constructions and let out them to the third parties and that he approached the Civil Court when eviction notice was issued and the litigation reached finality in the year 2014.

5. The learned counsel would add that the technical committee in the year 2009 found that the building was not stable and it was in a dilapidated condition, but no further action was taken because of the pendency of the appeal in S.A.No.80 of 2005. In the recent south west monsoon rain, further damage is caused and the building may collapse at any time and if any such incident takes place, the respondent-Municipality would be held responsible.

6. The learned Senior Counsel for the petitioner in reply, submitted that the petitioner is running a hotel and the condition of the building is not so bad and the petitioner may be given some time to vacate the premises.

7. In the instant case, since the expert committee had reported that the building is not stable, and requires demolition and no materials have been produced by the petitioner to establish that the report is arbitrary and the same cannot be accepted, I find no grounds to quash the impugned order.

8. Considering the fact that the building is in a dilapidated condition, the petitioner is directed to vacate the premises and hand over the possession to the respondent-Municipality, on or before 27.08.2018, provided if he furnishes an affidavit of undertaking to the respondent to that effect. In the meantime, if any untoward incident happens, the petitioner would be held responsible.

9. With the above observation and direction, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

pvs

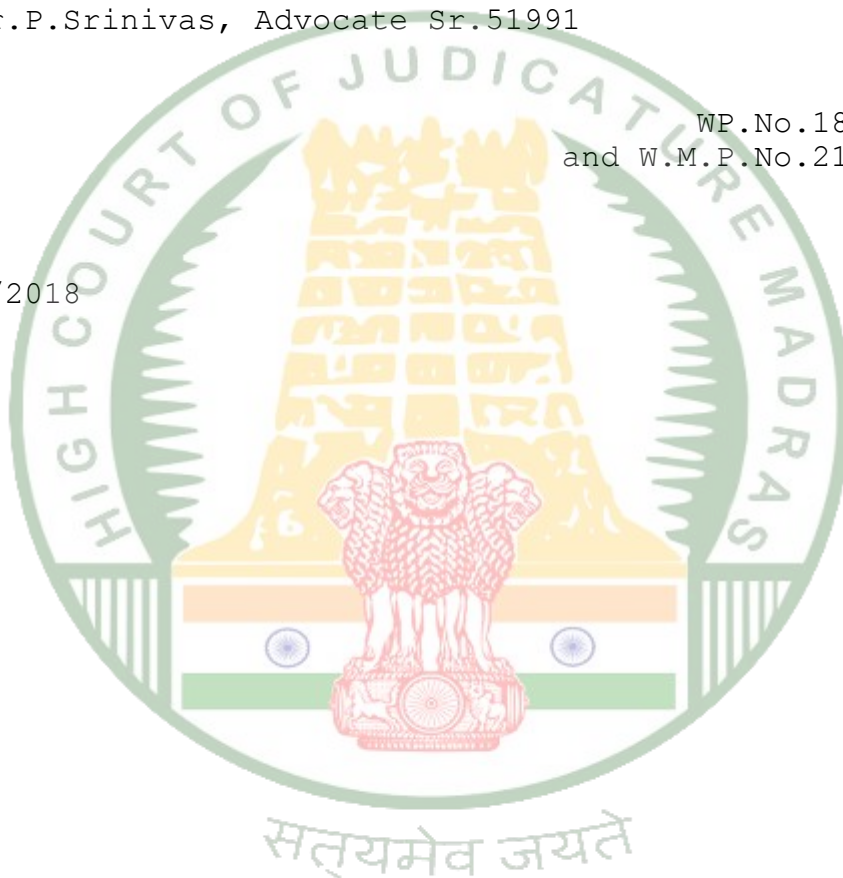
To

The Commissioner,
Coonoor Municipality,
Coonoor.

+lcc to Mr.D.Veerasekaran, Advocate Sr.50751
+lcc to Mr.P.Srinivas, Advocate Sr.51991

WP.No.18095 of 2018
and W.M.P.No.21374 of 2018

srg 27/08/2018



WEB COPY