

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.P.Nos.31064 & 31065 of 2016 &

W.M.P.Nos.26934 & 26935 of 2016

Tmt.Zarina Banu @ Zarina Shahir,
W/o.Mohammed Hubibullah Sahib,
No.139, New No.24/1,
Janijan Khan Road,
Royapettah, Chennai - 600 014.

Represented by her Power Agent
Mr.NAJ Tippu Sultan, Son of NA Jainulabudeen,
No.6, Sultan Street, Chennai - 600 001.

.. Petitioner in
W.P.No.31064 of 2016

Tmt.Nazeera Banu Muktar,
W/o.Syed Wahid Ahmed,
No.139, New No.24/1,
Janijan Khan Road,
Royapettah, Chennai - 600 014.

Represented by her Power of Attorney Holder,
Mr.Mohamed Sultan,
S/o.S.Ali Usman,
No.10/1, CNK Lane,
Triplicane, Chennai - 600 005.

.. Petitioner in
W.P.No.31065 of 2016

Vs.

- 1.The Commissioner,
Corporation of Chennai,
Rippon Buildings, Chennai - 600 003.
- 2.The Junior Engineer,
Zone IX, Ward No.114,
Corporation of Chennai,
Chennai - 600 005.

3.Smt.Elizabeth George Carghese

.. Respondents in
both Writ Petitions

PRAYER in both Writ Petitions: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the first and second respondents to take appropriate action under the Chennai City Municipal Corporation Act in respect of the building Door No.41/19, CNK Road, Triplicane, Chennai - 600 005 forthwith in order to avoid damages to the life and articles of the neighbours including the third respondent.

For Petitioner in both
Writ Petitions : Mr.K.A.Mariappan

For Respondents in both
Writ Petitions : Mr.V.C.Selvasekaran
Standing Counsel for R1 and R2
Mr.B.Balachander
For Mr.Ashok Menon for R3

C O M M O N O R D E R

Heard Mr.K.A.Mariappan, learned counsel for the petitioner; Mr.V.C.Selvasekaran, learned Standing Counsel for the respondents 1 and 2 and Mr.B.Balachander, learned counsel, representing Mr.Ashok Menon, learned counsel for the third respondent and perused the records.

2. The petitioners have come up with these Writ Petitions seeking direction to the respondents 1 and 2 to take appropriate action under the Chennai City Municipal Corporation Act in respect of the building Door No.41/19, CNK Road, Triplicane, Chennai - 600 005 forthwith in order to avoid damages to the life and articles of the neighbours including the third respondent.

3. The petitioners are the owners of the premises, in which, the third respondent is the tenant. According to the landlord, the building is in a dilapidated condition and it has to be demolished.

4. The learned counsel for the third respondent submitted that the building is in good condition and the report filed by the Structural Engineer, supports the case of the tenant. It is further submitted that the third respondent is ready and willing to continue to occupy the premises at his own risk and to that effect the third respondent has also filed an affidavit dated 10.04.2018. Para 5 of the affidavit reads as follows:-

"I state that I am ready and willing to continue to occupy at my own risk, the premises at No.19/41, CNK R,ad Chepauk, Triplicane, Chennai - 600 005, as I am doing at present, until I am evicted therefrom through due process of law."

5. The learned counsel for the petitioners submitted that in view of the report filed by the Engineer, these Writ Petitions can be closed recording the undertaking of the tenant and the petitioners can be given liberty to evict the tenant by following the process of law.

6. It is the case of the landlords that the condition of the building is not the only criteria to seek eviction of the tenant on the ground of demolition and reconstruction.

7. Recording the affidavit of the third respondent dated 10.04.2018 and the submissions of the learned counsel for the third respondent, these Writ Petitions are closed with liberty to as sought for by the petitioners. It is made clear that if any untoward incident takes place, the landlords shall not be made responsible for the same. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

r n s
To

1.The Commissioner,
Corporation of Chennai,
Rippon Buildings, Chennai - 600 003.

2.The Junior Engineer,
Zone IX, Ward No.114,
Corporation of Chennai,
Chennai - 600 005.

+1cc to Mr.ASHOK MENON, Advocate, S.R.No.27152

W.P.Nos.31064 & 31065 of 2016 &
W.M.P.Nos.26934 & 26935 of 2016

SSV(CO)
TR(26/04/2018)