

Application Nos.5364 of 2011, 6488, 6491 to 6497 of 2019
in
O.P.No.88 of 1960

S.MANIKUMAR, J.

Application No.5364 of 2011 is filed to permit the applicant Mr.Vishal S.Ved, legal heir of Mr.Subhash Vithaldas (deceased) and Satish M.Ved (deceased) to demolish and reconstruct the property bearing Door No.151-A, Mint Street, Sowcarpet, Chennai – 600079 and utilise the property on such terms as directed by this Court.

2. Application No.6488 of 2019 is filed by George Town Co-operative Stores seeking a direction to the second respondent Administrator General and Official Trustee of Tamil Nadu to issue fresh notice granting sufficient time to vacate and handover possession for the purpose of demolition and reconstruction after getting the planning permission and building approval.

3. Application No.6491 of 2019 is filed by George Town Co-operative Stores seeking a direction to the second respondent Administrator General and Official Trustee of Tamil Nadu to file

the proposal in terms of the direction issued by this Court in a Common Order dated 26.07.2017 made in Application No.5364 of 2011 in O.P.No.88 of 1960 and other connected applications.

4. Application No.6492 of 2019 is filed by one Mr.Ratanchand seeking a direction to the second respondent Administrator General and Official Trustee of Tamil Nadu to issue fresh notice granting sufficient time to vacate and handover possession for the purpose of demolition and reconstruction after getting the planning permission and building approval.

5. Application No.6493 of 2019 is filed by one Mr.Ratanchand seeking a direction to the second respondent Administrator General and Official Trustee of Tamil Nadu to file the proposal in terms of the direction issued by this Court in a Common Order dated 26.07.2017 made in Application No.5364 of 2011 in O.P.No.88 of 1960 and other connected applications.

6. Application No.6494 of 2019 is filed by Mrs.Usha Devi w/o Late K.Narpath seeking a direction to the second respondent

Administrator General and Official Trustee of Tamil Nadu to issue fresh notice granting sufficient time to vacate and handover possession for the purpose of demolition and reconstruction after getting the planning permission and building approval.

7. Application No.6495 of 2019 is filed by Mrs.Usha Devi w/o Late K.Narpath seeking a direction to the second respondent Administrator General and Official Trustee of Tamil Nadu to file the proposal in terms of the direction issued by this Court in a Common Order dated 26.07.2017 made in Application No.5364 of 2011 in O.P.No.88 of 1960 and other connected applications.

8. Application No.6496 of 2019 is filed by Mr.Mahendra Kumar, seeking a direction to the second respondent Administrator General and Official Trustee of Tamil Nadu to issue fresh notice granting sufficient time to vacate and handover possession for the purpose of demolition and reconstruction after getting the planning permission and building approval.

9. Application No.6497 of 2019 is filed by Mr.Mahendra

Kumar, seeking a direction to the second respondent Administrator General and Official Trustee of Tamil Nadu to file the proposal in terms of the direction issued by this Court in a Common Order dated 26.07.2017 made in Application No.5364 of 2011 in O.P.No.88 of 1960 and other connected applications.

10. Mr.S.Vishal S.Ved, second respondent in A.No.6488 of 2019 has filed a counter affidavit dated 31.08.2019, inter alia stating as follows:

"2. At the outset I state that the present applications filed praying (1) to direct me to file a proposal in terms of the order of this Hon'ble Court and (2) to direct the Learned 3rd respondent to issue fresh notice granting sufficient time to the applicants to vacate and hand over possession are misconceived and nothing but gross abuse of process.

3. I state that the subject property was originally owned by Smt.Jamunabai and in furtherance to the order made in O.P.No.88 of 1960, the property was vested in the Learned 3rd respondent by order dated 23.9.1960. By

order dated 3.7.1964 made in C.S.No.91 of 1963, this Hon'ble Court had framed a scheme regarding the Trust.

4. I state that I am the lineal descendent in the family of Smt.Jamunabai and we are entitled to right of residence in the property and are also obliged to perform seva and pooja to the deity of Shri Thakurji.

5. I state that in as much as the building in the property is more than 115 years old, my father filed Application No.5364 of 2011 praying for permission to effect demolition and reconstruction of the property. In as much as the tenants including the applicants herein, who are occupying various portions in the property, did not vacate in spite of requests, my father filed Application No.4174 of 2012 praying to issue appropriate directions to the tenants including the applicants herein to vacate the respective portions under their occupation to facilitate demolition and reconstructions. The applicants herein also filed applications praying for re-delivery of shop after demolition and reconstruction within

the time fixed by this Hon'ble Court. By order dated 20.9.2017, this Hon'ble Court directed the tenants to vacate the portions and deliver possession to the 3rd respondent on or before 4.10.2017, failing which the Learned 3rd respondent was directed to take possession of the property.

6. I state that though nearly two years had elapsed since then, the applicants herein did not vacate and deliver possession as directed by this Hon'ble Court. My family is entitled to right of residence in the first floor and we had undertaken to vacate immediately on the tenants vacating the various portions. As the tenants did not vacate the portions under their occupation, after waiting sufficiently, I delivered possession of the residential portion to the Learned 3rd respondent on 17.8.2019 and have now shifted to a rented apartment at Flat No. 1602, 16th Floor, 'K' Block, KLP Abhinandan apartment, No.30, Perambur Barracks Road, Pattalam, Chennai-600012.

7. I state that the Learned 3rd

respondent therefore issued a notice to the applicants calling upon them to vacate the property and after waiting sufficiently, on 21.8.2019, he issued a final letter calling upon the shop portions occupied by them on or before 31.8.2019. In spite of such action by the Learned 3rd respondent, the applicants, have not surrendered possession but are now continuing to occupy the portions and carrying on their commercial activity. It is in these circumstances that they have now filed the present application.

8. I state that pending the proceedings in Application No.5354 of 2011, my father died and I have been brought on record and am continuing the proceedings. I state that we have submitted our proposal for demolition and reconstruction even in the year 2014 and thereafter, as required by the Learned Official Trustee, the modified proposal was also submitted in June 2017. The details of the said proposals have also been placed before this Hon'ble Court. I had personally met the Learned 3rd respondent and apprised him of the proposed demolition and reconstruction to

be effected by our family at our cost and also informed him that the lease amount derived will be shared between our family and the Trust as apportioned by the order of this Hon'ble Court. It was in these circumstances that directions were issued to the applicants to vacate the portions under their occupation to facilitate demolition. Without so vacating the property, the applicants have now chosen to file the present applications. It is for the Learned 3rd respondent to file the report on the various factual details regarding action taken for resumption of possession."

11. Learned Administrator General and Official Trustee of Tamil Nadu has filed a Common Report dated 03.09.2019, which is extracted hereunder:

"2. The Official Trustee submits that the 2nd respondent's father filed an application in A.No.5364 of 2011 with a prayer to permit him to effect demolition and reconstruction to the proeperty No.151A, Mint Street, Sowcarpet, Chennai-79. Pending application he died. His son i.e. 2nd respondent in these applications have been brought on record as per order

dated 28.06.2013 in A.No.2650 of 2013.

3. The Official Trustee further submits that pending the said application, tenants in the possession has filed Application Nos. 4333/2011 and 4174/2012 with a similar relief of to pass an order to redelivering the shop back to the applicants therein after completion of building in Door No.151A, Mint Street, Sowcarpet, Chennai-79 and fix the time limit for demolition and reconstruction of the property as well as the area to be given to the applicants within the time fixed by the Hon'ble High Court.

4. The Official Trustee further states that in A.No.5364/2017, an order was passed by this Hon'ble Court by order dated 12.04.2017 directing the Official Trustee to issue notice to the tenants to vacate the premises within a period of one month from the date of receipt of the copy of the order to undertake the new or reconstruction. Then the case was posted to 26.04.2017.

5. The Official Trustee further states that

in pursuance of this order, the Official Trustee has issued a notice dated 27.04.2017 to the tenants of Rathan Chand Lotha and George Town Co-Operative Society directing to handover the vacant possession on or before 31.05.2017. They have not vacated as per the orders of the Hon'ble High Court.

6. The Official Trustee further states that the other tenants in the premises filed application nos. & judges' summon with a prayer (i) to direct the 2nd respondent to file the proposal in terms of the direction issued by this Hon'ble Court in O.A.No. 5364/2011 by a common order passed in dated 26.07.2017. (ii) To direct the 3rd respondent to issue a fresh notice granting sufficient time to vacate and hand over the possession for the purpose of demolition and reconstruction after getting the planning permission and building approval. When the Hon'ble High Court heard those applications, had passed a common order dated 20.09.2019 directing the tenant to vacate and handover the vacant possession on or before 04.10.2017, failing which the Official Trustee has to take possession of the property. Then

the matter is to be listed on 04.10.2017.

7. The Official Trustee further submits that even pursuance of the second order, the tenants have not vacated and handed over the vacant possession to the Official Trustee of Tamil Nadu. Thereafter, the Official Trustee issued a notice dated 23.10.2017 to the tenants directing them to vacate and hand over the vacant possession on or before 30.10.2017. Even the tenants could not come forward to vacate and hand over the vacant possession.

8. The Official Trustee further states that thereafter, the 2nd respondent herein has given a letter dated 31.01.2019 requesting the Official Trustee to take appropriate steps to vacate the tenants. Yet another notice dated 12.02.2019 addressed to the tenants by the Official Trustee to direct them to vacate and deliver the vacant possession on or before 31.03.2019.

9. The Official Trustee further states that subsequent there to some other tenants sent letters on 11.03.2019 and 27.03.2019 stating

that corporation plan was not obtained for demolition and re-construction and without it the building cannot be demolished. Further they also stated that they are ready to pay any advance or donation for re-construction.

10. The Official Trustee further states that thereafter, the Official Trustee issued a notice dated 25.07.2019 to the tenants directing them to vacate and hand over the vacant possession on or before 08.08.2019. Some other tenants have sent letters dated 29.07.2019 & 31.07.2019 with a same stand that the demolition plan was not applied etc. Yet another letter dated 17.08.2019 was sent by some other tenant stating that after vacating the 1st floor occupier then they would vacate their respective portions.

11. The Official Trustee further states that subsequently, the 2nd respondent has given a letter dated 19.08.2019 that he is ready to hand over vacant possession since he vacated the same. The Official Trustee had taken the vacant possession from him on 21.08.2019.

12. The Official Trustee further states that during the time, one of the beneficiary daughter Mrs. Bena K.Sampath is also residing in the 1st floor came to be known to the Official Trustee and immediately a notice dated 20.08.2019 was sent to her asking to vacate and hand over same to the Official Trustee. Subsequent there to yet another notice was issued to tenants on 21.08.2019 asking them to vacate and hand over the vacant possession on or before 30.08.2019 since, 2nd respondent already vacated and handed over the vacant possession.

13. The Official Trustee further states that some of the tenants have issued letters dated 19.08.2019, 21.08.2019 & 22.08.2019 requesting that they are ready to pay a market rate rent after putting up the new construction. Yet another notice was addressed to the daughter of beneficiary Bena K.Sampath on 26.08.2019 asking her to vacate and hand over the vacant possession immediately.

14. The Official Trustee further states that at this juncture, these applications have been

filed with ulterior motive to drag on the proceedings stating that they may be directed to vacate after getting the planning permission and building approval. The petitioners have mentioned in their affidavit that this Hon'ble Court has already directed the 2nd respondent to file a proposal in terms of directions issued by this Hon'ble Court in A.No.5364/2011 by a common order dated 26.07.2019 .

15. The Official Trustee further states that in that order in paragraph 5, this Hon'ble Court granted two months time to the tenants to vacate the premises to enable the authorities to proceed with demolition and re-construction. Counsel for the second respondent was directed to file a proposal on the next hearing. However, a copy of the proposal with plan is found in the file with the Official Trustee as submitted by the beneficiary i.e. second respondent in these applications.

16. The Official Trustee further states that the 2nd respondent filed the application in A.No.5364/2011 that permission may be granted to demolish and reconstruct this

building. Pending application, Hon'ble High Court passed an order in twice dated 12.04.2017 & 20.09.2017 to vacate and hand over the vacant possession to the Official Trustee for further course of action of demolition and reconstruction of the building.

17. The Official Trustee further states that having they have not obeyed and sending letters by letters and filing present applications would go to show that they are law evading citizen and another aspect they are dictating the Official Trustee and this court that after approval of the demolition plan only with a condition a shop be allotted to them, they will vacate would go to show their intention is only to prolong the issue.

18. In view of the above, the Official Trustee prays that the Hon'ble Court dismiss the applications filed by the tenants with direction to vacate and hand over the vacant possession henceforth and render justice..”

12. Mr.V.G.Suresh Kumar, learned counsel appearing for the applicant / beneficiary in A.No.5364 of 2011 in support of the

prayer for demolition and reconstruction, has filed a proposal dated 09.09.2019, which is extracted hereunder:

"1. The 3rd applicant and his family will effect demolition of the existing building and re-construct the same at their cost.

2. The applicant will apply for permission for demolition and sanction for re-construction in the name of the Learned Official Trustee.

3. The demolition will be effected within a period of three months from the date of obtaining the sanction for such demolition and re-construction of new building will be effected within a period of 15 months from the date of obtaining the planning permission using the best quality materials.

4. The applicant states that the plan proposed for effecting construction in the ground and first floor of the premises is enclosed herewith and the same may be considered.

5. The ground floor construction is to consist of shop portions while the first floor is

to consist of residential accommodation for the applicant and his family. There is also provision for a pooja room in which the deity God Shri Thakurji will be kept and daily poojas performed.

6. The entire first floor portion will be occupied by the applicant and his family. The shops in the ground floor can be given on lease by the Learned Respondent, jointly with the applicant, to the existing tenants, if they accept to pay the enhanced rent as fixed by this Hon'ble Court and also to other tenants, all with the approval of this Hon'ble Court. This arrangement will continue until further orders of this Hon'ble Court.

7. The estimated cost of demolition and construction of building consisting of ground and first floors of an extent of 2,983 square feet and 3,000 square feet approximately is as follows:

Description	Square feet	Rate (Rs.)	Amount (Rs.)
Ground Floor Commercial	2,983 sq.ft.	1,600.00	47,72,800.00
First Floor	3,000 sq.ft.	1,750.00	52,50,000.00
Head Room	200 sq.ft.	1,500.00	3,00,000.00

Description	Square feet	Rate (Rs.)	Amount (Rs.)
Water sump	6,000 litres	30	1,80,000.00
Overhead tank	2,000 litres	20	40,000.00
Main Gate			60,000.00
Approval			60,000.00
EB / Metro / Drainage			5,00,000.00
Elevation			3,50,000.00
TOTAL			1,15,12,800.00

8. On completion of construction, it is proposed that there will be 11 shops in the ground floor. The extent of each shop and the approximate expected rent are tabulated hereunder:

S.No.	Extent	Approx. expected rent (in rupees)
1.	13 feet x 16 feet	30,000/-
2.	13 feet x 16 feet	30,000/-
3.	13 feet x 7 feet 3 inches	15,000/-
4.	13 feet x 7 feet 3 inches	15,000/-
5.	13 feet x 7 feet 6 inches	15,000/-
6.	13 feet x 7 feet 6 inches	15,000/-
7.	13 feet x 10 feet 6 inches	18,000/-
8.	13 feet x 10 feet 6 inches	18,000/-
9.	13 feet x 9 feet 6 inches	18,000/-
10.	13 feet x 9 feet 6 inches	18,000/-
11.	13 feet x 10 feet 6 inches	18,000/-
	Total expected rent	2,10,000/-

The above is only an approximate estimate and the portions can be given on rent at the then prevailing market rate, as decided by this Hon'ble Court.

9. The lease amount derived will be apportioned in the ratio of 75% to the applicant, to offset the cost of the construction and 25% to the Learned Respondent. The rental advance may also be paid by the tenants in the same ratio."

13. Mr.R.Priya Kumar, learned counsel appearing for the applicants in Application Nos.6488, 6491 to 6497 of 2019 submitted that the applicants are George Town Co-operative Stores represented by its Manager and the others are small traders. According to the learned counsel, as festivals Deepavali and Pongal are coming in the ensuing months, the applicants would deliver vacant possession of the premises for the purpose of demolition and reconstruction after the festival season. The learned counsel has also made an endorsement to that effect.

14. Placing the above on record, this Court proposes to consider the orders passed by this Court on the earlier occasions. When Application No.5364 of 2011 came up for hearing on 12.04.2017, this Court after considering the submissions of the learned counsel appearing for the applicant as well as the learned Official Trustee, has ordered as under:

"The above application has been filed by the beneficiary for the reconstruction of the temple on the ground that it is 145 years old and it is for the Official Trustee to file a report regarding the feasibility of reconstruction or to take any other decision in the matter, depending upon the monetary aspect and also requirement.

2. It is submitted by the learned counsel for the applicants that the building is in dilapidated condition and the respondents 2 and 3 have not given the consent and respondents 4 to 9 have consented for vacating the premises.

3. In this factual circumstances, the Official Trustee is directed to issue notice to

the respondents 2 and 3 to vacate the premises within a period of one month from the date of receipt of a copy of this order and to undertake repair work or reconstruction as the case may be.

4. Call on 26.04.2017."

15. Subsequently, as per the directions of this Court as stated supra, Office of the learned Administrator General and Official Trustee has issued a notice in Dis.No.470/Jamu/OTHC /2017 dated 27.04.2017 to one Rathan Chand Lodha and George Town Co-operative Stores, represented by its Manager to hand over vacant possession of the premises occupied by them immediately in compliance with the order of this Court dated 12.04.2017. For brevity, notice dated 27.04.2017 is extracted hereunder:

"Dis.No.470/Jamu/OTHC/2017 Dated: 27.04.2017

NOTICE

Sub: Trust Estate of Jamunabai - Door No.151 A, Mint Street, Sowcarpet, Chennai - 600 079 - Notice - Issued- Regarding.

Ref: Order of the Hon'ble High Court in A.No.5364 of 2011

in O.P.No. 88 of 1960 , dt.12.04.2017.

It is brought to your notice that the Hon'ble High Court vide its order as per the reference cited, had ordered you to vacate and hand over possession of your portion at Door No.151 A, Mint Street, Sowcarpet, Chennai - 600 079 to this office on or before 31.05.2017.

You are hereby directed to hand over the vacant possession of the premises occupied by you immediately, in compliance of the order of the Hon'ble High Court.

To

1. Rathan Chand Lodha
151 A, Mint Street,
Sowcarpet,
Chennai - 600 079.

2. George Town Co - Operative Stores,
Rep. by its Manager,
151 A, Mint Street,
Sowcarpet, Chennai - 600 079."

16. Thereafter, proposal seems to have been submitted by Mr.Vishal S.Ved, applicant in A.No.5364 of 2011 to the learned Official Trustee on 15.06.2017. He has estimated the cost of the construction of the building at Rs.1,01,80,000/-. While doing so, the applicant has also stated as follows, in paragraphs 9 & 10 as follows:

"9. The applicants will effect payment of

Rs.25% of the rent derived to the Learned Respondent and utilise the remaining 75% to offset the cost of the construction.

10. The entire ground floor consists of 11 shops may be given on lease for a period of 25 years to the applicants with a right to sublet the same and derive rental income. The applicants will submit a quarterly statement of accounts to the Learned Respondent regarding the rent derived and remit 25% of the rent derived into the Trust account with the Learned Respondent in such manner as may be directed by this Hon'ble Court."

17. Though proposal is stated to have been submitted in June, 2017 there is no order on the same.

18. Materials on record discloses that Mr.Vishal S.Ved has filed A.No.4174 of 2012 for a direction to the respondents 2 to 7 therein to vacate their respective portions under their occupation in the ground floor of the premises bearing Door No.151-A, Mint Street, Sowcarpet, Chennai – 600 079 to facilitate demolition and

re-construction by the applicant. In the said application, tenants Mr.Mahendra Kumar, Mr.Jabbar Singh, Mr.Ratanchand and Mr.K.Narpath have filed A.Nos.4079 to 4082 of 2017 respectively to order for redelivery of the shops back to the above said applicants after reconstruction of the building situated at No.151-A, Mint Street, Sowcarpet, Chennai 600079 and to refix time limit for demolition and reconstruction of the property, as well as the area to be given to the applicants therein within a time frame fixed by this Court.

19. After hearing the beneficiary Mr.Vishal S.Ved, learned Administrator General and Official Trustee and the learned counsel for the tenants in the said applications, this Court vide order dated 26.07.2017, has passed the following order;

"A.Nos.4079 to 4082 of 2017 are said to have been filed by the tenants seeking redelivery of the shop, which are under their use and occupation."

2. It is seen that the Official Trustee has filed an application seeking permission for demolition and reconstruction of the property.

3. Aggrieved over the proposal of the Official Trustee to demolish and reconstruct, the tenants, who are in occupation of the subject premises, have come before this Court seeking redelivery of the shop after demolition and reconstruction.

4. It is the discretion of the Court, who is the custodian of the Trust property, to reallocate the subject property to the tenants. Depending upon the cost factor and other considerations, if the tenants, who are in occupation of the subject premises, are willing to offer the competitive market price, on par with others, their right of pre-emption will be considered, at the relevant, point in time, in the process of allotment of the newly constructed building. If the tenants are unable to pay the competitive market price, then they cannot have the matter or right, to insist upon the re-delivery of the premises.

5. However, further two months time has been given to the tenants/applicants to vacate the subject premises to enable the authorities to proceed with the demolition and reconstruction.

6. Learned counsel appearing for the beneficiary of the Trust submits that he will file a proposal on the next date of hearing.

7. Post the matter next week for production of the proposal."

20. At this juncture, the learned Official Trustee submitted that in paragraph Nos.2 and 3 of the common order dated 26.07.2017, made in the said applications, though it is stated that the learned Official Trustee seeks permission for demolition and reconstruction of the property and that aggrieved over the same the tenants are before this Court, the same is not factually correct, whereas on the other hand, it is the beneficiary Mr.Vishal S.Ved has taken out the said applications for demolition and reconstruction of the building. Error pointed out by the learned Official Trustee is noted.

21. On 20.09.2017, this Court directed the tenants to vacate and handover possession of the premises on or before 04.10.2017, failing which the Official Trustee has to take

possession of the property.

22. Pursuant to the said order, learned Administrative General and Official Trustee has issued a notice in Dis.No.1174/OTHC/January/2017, dated 23.10.2017 to the tenants as well as the beneficiary Mr.Vishal S.Ved to vacate and handover vacant possession of the premises on or before 30.10.2017, failing which, legal action would be initiated against the occupants. For brevity, the said notice of the learned Official Trustee dated 23.10.2017 is extracted hereunder:

"Dis.No.1174/OTHC/ Jamuna/2017 Dated :23.10.2017.

Sub: Office of the Administrator General and Official Trustee of Tamil Nadu – Trust Estate of Jamuna Bai - Premises No.151-A, Mint Street, Chennai - 79 - Delivery of Vacant Possession of the premises - Regarding.

Ref: Order of the Hon'ble High Court in A.No.4333 and 5364 of 2011 and A.No.4174 of 2012 and A.Nos.4079 to 4082 of 2017 in O.P.No.88 of 1960, dated 20.09.2017.

With reference to the Hon'ble High Court Order cited in the reference, despite the order of the Hon'ble High Court you had not vacated the premises till date. You are therefore now directed to vacate and hand over the vacant possession of the above said

premises on or before 30.10.2017 without fail, failing which legal action would be initiated against you.

Official Trustee of Tamil Nadu

1. Mr.Vishal S Ved
2. Mr.Ratan Chand
3. George Town Co-operative Stores
Rep.by its Manager
4. Mr.Mahendra Kumar
5. Mr.Prakash
Prop.Kundan Traders
6. Mr.K.Narapet
7. Mr.Jabbar Singh
Prop.Mahadev Bangles and
Ravi Toy games
8. Mr.Muralidhar Soni
9. Mr.Subramaniam

*All residing at
No. 151-A, Mint Street,
Sowcarpet, Chennai-79"*

23. Mr.Vishal S.Ved seems to have sent a letter dated 31.01.2019, to the learned Official Trustee, which is extracted hereunder:

"Date: 31.1.2019

From

Vishal S.Ved,
Door No.151 A, Mint Street,
Sowcarpet,
Chennai-600079.

To

WEB COPY

The Official. Trustee of Tamil Nadu,
High Court, Madras,
Chennai - 600104.

Sir,

Re.: Application Nos.5364 of 2011 and 4174 of 2012 in
O.P.No.88 of 1960 - Vishal S.Ved Vs. Yourselves -
High Court, Madras.

Application No.5364 of 2011 is filed praying to permit me to effect demolition and re-construction in the property bearing Door No. 151 A, Mint Street, Sowcarpet, Chennai-600079, and utilise the property on such terms as directed by this Hon'ble Court.

Application No.4174 of 2012 is filed praying to issue appropriate directions to Respondents 2 to 7, the tenants, presently occupying the said property to vacate their respective portions under their occupation in the ground floor of the property to facilitate demolition and re-construction.

By order dated 20.9.2017, the Hon'ble High Court, Madras, directed the tenants to vacate and hand over possession of the property to your goodself on or before 4.10.2017, failing which your goodself was directed to take possession of the property. Till date, neither have the tenants delivered possession nor have you taken steps to vacate the tenants in compliance with the orders of the Hon'ble Court.

It is relevant to point out that we, the family members of the Founder of the Trust, have a right of residence in the first floor of the property and we have already expressed our

readiness and willingness to deliver vacant possession to you on the date on which the tenants deliver vacant possession to you. In fact, I have also identified another property in which I can reside with my family during the period when the property bearing Door No. 151 A, Mint Street, Sowcarpet, Chennai-600079, is developed and I have also paid the rental advance there for.

I reiterate that I am ready and willing to deliver vacant possession of the first floor on the date on which the tenants deliver vacant possession of the respective portions to you.

May I therefore request you to take appropriate steps to vacate the tenants and take possession of their respective portions in compliance with the orders of the Hon'ble High Court, Madras dated 20.9.2017.

Yours sincerely,
(VISHAL S.VED)"

24. Thereafter, learned Official Trustee vide proceedings dated 12.02.2019, has issued notice to Mr.Vishal S.Ved and six others to vacate and handover possession of the property on or before 31.03.2019, without fail, so as to execute the demolition and reconstruction of the above said building. For brevity notice dated 12.02.2019, is extracted hereunder:

"Dis.No.206/OTHC/2019 Dated:12.02.2019

*Sub: Office of the Administrator General and Official
Trustee of Tamil Nadu, High Court Campus, Chennai-
104 – Trust Estate of Jamunabai – Door No.151 A,
Mint Street, Sowcarpet, Chennai-79 – Final notice
issued – Regarding.*

*Ref: 1. Hon'ble High Court's Order in A.No.5364 of 2011 in
O.P.No.88 of 1960, dt.12.4.2017.
2. Notice given to all the tenants on 27.4.2017.
3. Letter dt.31.1.2019 from Vishal S Ved 151-A, Mint
Street, Sowcarpet, Chennai.*

*In compliance of the order of the Hon'ble High Court
referred in the reference 1st cited, you are all once again
reminded and final notice to vacate and hand over the possession
of the above said property on or before 31.03.2019 without fail.
So as to execute the demolition and reconstruction of the above
said building of the premises.*

OFFICIAL TRUSTEE OF TAMIL NADU

To

*1. Mr.Vishal S Ved,
151 A, Mint Street,
Sowcarpet, Chennai -79*

*2. Mr.Ratan Chand,
151 A, Mint Street,
Sowcarpet, Chennai -79*

3. George Town Co-op stores,
151 A, Mint Street,
Sowcarpet, Chennai -79

4. Mr. Mahendra Kumar,
64, Perumal Mudali Street,
Sowcarpet, Chennai -79

5. Mr. Prakash,
151 A, Mint Street,
Sowcarpet, Chennai -79

6. Mr. K. Narapet,
64, Perumal Mudali Street,
Sowcarpet, Chennai - 79

7. Mr. Muralidhar Soni,
151 A, Mint Street,
Sowcarpet, Chennai -79"

25. Pursuant to the notice dated 12.02.2019, one Mr. Muralidar Soni, seems to have given a letter dated 11.03.2019, stating that the building is in good condition and he will pay rent as per the orders of this Court.

26. Likewise, in response to the said notice dated 12.02.2019, Mr. Ratan Chand vide his letter dated 27.03.2019, to the learned Official Trustee has stated that he is ready to pay the prevailing market rent and also ready to pay the advance /

donation amount towards the cost of the construction so as to enable the Official Trustee to reconstruct or repair the building at his cost.

27. Similar letters dated 27.03.2019, have been sent by Mr.Mahendra Kumar and Mr.K.Narpath respectively to the learned Official Trustee.

28. Thereafter, the learned Official Trustee has issued a final notice in Dis.No.1131/Jamu/OTHC/2019, dated 25.07.2019 to Mr.Vishal S.Ved and eight others to handover vacant possession of the premises occupied by them on or before 08.08.2019, in compliance of the order of this Court, failing which necessary action will be initiated against them. For brevity, notice dated 25.07.2019, is extracted hereunder:

"Dis.No.1131/Jamu/OTHC/2019 Dated: 25.07.2019

NOTICE

Sub: Trust Estate of Jamunabai - Door No.151 A, Mint Street, Sowcarpet, Chennai 600 079 - Notice - Issued - Regarding.

Ref: 1. Orders of the Hon'ble High Court in A. No. 5364 of 2011 in O.P.No.88 of 1960, dt. 12.04.2017.

2. Our notice in Dis. No. 470/ /Jamu/ OTHC /2017 dt. 27.04.2017
3. Orders of the Hon'ble High Court in A. No. 5364 of 2011, A.No.4333, 4079 to 4082 of 2017 & A.No. 4174 of 2012 in O.P.No.88 of 1960, dt.20.09.2017.
4. Our notice in Dis. No. 1174/OTHC/Jamuna/2017 dt. 23.10.2017.
5. Our notice in Dis. No. 206/OTHC/2019 dt. 12.02.2019.

It is bring to your notice that the Hon'ble High Court vide its order cited in ref.1, directed all of you to vacate and handover the vacant possession to us within one month from the date of the said order. In pursuance of the same, the cited ref.2 letter was addressed to you calling upon to vacate and surrender the vacant possession on or before 27.04.2017. Even you have not acted upon, the Hon'ble High Court ordered in cited ref.3 to vacate and hand over vacant possession of your portion at Door No.151 A, Mint Street, Sowcarpet, Chennai 600 079 to this office on or before 04.10.2017. Consequently, cited ref.4 & 5 notices were sent to you directing to hand over the vacant possession of the premises. You have not handed over the possession of the premises till now.

This is a Final Notice to you directing to hand over the vacant possession of the premises occupied by you on or before 08.08.2019, in compliance of the order of the Hon'ble High Court, failing which necessary action will be initiated against you from this office, immediately.

*Administrator General and
Official Trustee of Tamil Nadu"*

29. Mrs.Usha Devi, Mr.K.Narpath and Mahendra Kumar

tenants of the premises bearing Door No.64, Perumal Mudali Street, Sowcarpet, Chennai - 600 001 have sent letters requesting the Official Trustee to permit them to carryout their business till permission for demolition and reconstruction has been obtained from the Chennai Corporation. They have also submitted that they are ready to pay donation for construction of the building at the prevailing rent. One such letter sent to the learned Official Trustee is reproduced hereunder:

"29.07.2019,

From

*Mrs. Usha Devi,
W/o. Late Mr. K. Narpath,
No. 64, Perumal Mudali Street,
Sowcarpet, Chennai - 600 001.*

To

*The Official Trustee of Tamil Nadu,
High Court,
Chennai - 600 104.*

Respected Sir / Madam,

Ref: i) O.P. No. 88/1960

ii) My letter dated 27.03.2019

*My husband Mr. K. Narpath was one of the tenant in the
premises bearing Door No. 64, Perumal Mudali Street,*

Sowcarpet, Chennai - 600 001, who died on 01.05.2019. Now only I came to know Mr. Vishal has filed an Application before the Hon'ble High Court for demolition and reconstruction of premises.

I submit that the Hon'ble High Court has pleased to observe that if the tenant willing to offer the market price it may be allotted to the tenant.

I beg to submit that my husband has given letter dated 27.03.2019 stating that we all the tenants are willing and ready to pay the construction as well as market price of rent.

I state that till date the Mr. Vishal is not applied corporation plan for demolition and reconstruction, without the plan the building cannot be demolished and reconstruct.

Hence I request your honour that I may be permit to carry on the business till the permission for demolish and reconstruction obtained from Corporation of Chennai, I am ready to' pay the donation for construction of the building and also prevailing rent.

Kindly consider my request and oblige.

Yours faithfully,

Encl: Copy of letter dated 27.03.2019"

30. Mr.Vishal S.Ved, sent a letter dated 31.07.2019, to the learned Official Trustee stating that earlier he has sought permission to demolish the property and reconstruct it at his own cost and utilise the property on the terms as fixed. Further he has given an undertaking to vacate the first floor of the property to facilitate demolition and reconstruction within 15 days from the date on which the tenants under the learned Official Trustee who are occupying various portions in the ground floor, vacate and deliver vacant possession to the learned Official Trustee. For brevity, the said letter dated 31.07.2019, is reproduced hereunder:

"Date: 31.07.2019

From

*Vishal S.Ved,
Door No.151 A, Mint Street,
Sowcarpet,
Chennai – 600079.*

To

*The Learned Administrator General and
Official Trustee of Tamil Nadu,
High Court, Madras,
Chennai – 600104.*

Respected Sir,

*Re.: 1) Property bearing Door No.151 A, Mint Street,
Sowcarpet, Chennai-600079.*

*2) Order of the Hon'ble High Court, Madras, made in
Application Nos.5364 of 2011 and 4174 of 2012 dated
20.9.2017*

*3) Your notice dated 25.7.2019 bearing reference DAS
No.1134/JAMU/OTHC/2019*

I am in receipt of your notice dated 25.7.2019. Jamunabai Trust is the owner of the property under reference and is being administered by you. I am the lineal descendant of Late Jamunabai and under the terms of the scheme, I am performing Pooja and seva to Sri Thakurji. This is in terms of the Will executed by Smt.Jamunabai. In terms of the Will and the decree, the family of Jamunabai has a right to occupy the property.

The deity is in the first floor of the property where I am residing along with the family and performing pooja and seva.

In view of the fact that the building is more than a century old and dilapidated, my father filed Application No.5364 of 2011 praying to permit him to effect demolition and reconstruction in the property and utilise the property on such terms as directed by the Hon'ble High Court, Madras. In view of the fact that a number of tenants, who are the other addressees in your notice, are occupying the property and did not vacate the portions under their occupation, he filed Application No.4174 of 2012 praying to

direct the tenants to vacate their respective portions in the ground floor to facilitate demolition and reconstruction.

By order dated 20.7.2017, the Hon'ble High Court, Madras, granted time till 4.10.2017 to the tenants to vacate the portion under their occupation. In spite of the same, certain of the tenants are yet to vacate and deliver possession to you.

My family is in occupation of the first floor of the property. On the demise of my father, I have been brought on record as the lineal descendent and his legal heir and am continuing the proceedings.

As stated above, we have sought for permission to demolish the property and reconstruct it at our cost and utilise the property on the terms as fixed. We have already undertaken and re-affirm the said under undertaking to vacate the first floor of the property to facilitate demolition and reconstruction within 15 days from the date on which the tenants under you, who are occupying various portions in the ground floor, vacate and deliver vacant possession to you.

*Yours sincerely,
(Vishal S.Ved)"*

31. Subsequently, Mr.Ratan Chand, Manager of George Town Co-operative Stores, Mr.Mahendra Kumar, Ms.Usha Devi,

Mr.Muralidhar Soni and Mr.Subramaniam have jointly written a letter dated 17.08.2019, to the learned Official Trustee assuring and promising that they will hand over vacant possession for demolition as soon as First Floor occupier Ms.Beenakumari Legal Heir of Jamuna Bai vacates her portion. The said letter dated 17.08.2019 is reproduced hereunder:

"17.08.2019

From

- 1] RATANCHAND
 - 2] GEORGE TOWN CO-OPERATIVE STORES,
Rep. by its Manager.
 - 3] MAHENDRA KUMAR
 - 4] USHA DEVI
W/o Late. K.Narapet
 - 5] MURALIDHAR SONI
 - 6] SUBRAMANIAM
- All are residing at
No. 151 -A, Mint Street &
No.64, Perumal Mudali Street,
Sowcarpet, Chennai - 600079.

To

Office of The Administrator General and
Official Trustee of Tamil Nadu,
High Court Campus,
Chennai - 600104.

Respected Sir,

There are near about 6 (six) tenants in the premises in the

Ground Floor and in the First Floor there are 2 (two) residents one is occupied by Beenakumari who is the legal heir of the Jamuna Bai and another one is Vishal who filed an application for demolition and reconstruction before this Hon'ble Court.

We all the tenants like to bring the facts before your Honour that Beenakumari who is one of the legal heir is continuing residing in the First Floor and no application, is filed against her for handing over the vacant possession to unable to demolish the building for reconstruction.

When we asked the said Beenakumari, she categorically told that she is not going to vacate the premises and the Hon'ble Court also not given any direction to vacate and hand over the possession.

We all the tenants like to submit that without vacating the Beenakumari who is the one of the legal heir of Jamuna Bai, building cannot be demolish for reconstruction.

We are ready hand over the vacant possession as soon as the First Floor residential portion -hand over for demolish and reconstruction. Till the handover of the vacant possession by the First Floor occupier we all the tenants may permitted to continue the business and we undertake that we will hand over the possession within one week as soon as the First Floor owner

vacate the portion. Further we like to bring to knowledge to your Honour that till date no demolition plan was obtained by the owner of the First Floor for demolishing the building by the Corporation of Chennai.

We once again request your Honour that till the handing over the vacant possession by the First Floor occupier/owner, we may be permitted to continue our business.

We once again assuring and promise that we will hand over vacant possession for demolition as soon as First Floor occupier Beenakumari legal heir of Jamuna Bai vacant the portion and oblige.

Yours faithfully

1] RATANCHAND
2] GEORGE TOWN CO-OPERATIVE STORES,
Rep. by its Manager.
3] MAHENDRA KUMAR
4] USHA DEVI
W/o Late. K.Narapet
5] MURALIDHAR SONI
6] SUBRAMANIAM"

32. Thereafter, on 19.08.2019, the beneficiary Mr.Vishal S.Ved sent a letter to the learned Official Trustee stating that he is surrendering the keys and handing over vacant possession. He has also sought for permission to demolish the property and reconstruct it at his own cost and utilise the property on the

terms as fixed. The said letter dated 19.08.2019, is extracted hereunder:

"19.8.2019

From
Vishal S.Ved,
Beneficiary & Trustee, Estate of Jamunabai
Door No.151/A, Mint Street, Sowcarpet,
Chennai - 600079.
PH:93800 42908

To

The Learned Administrator General and
Official Trustee of Tamil Nadu,
High Court, Madras,
Chennai - 600104.

Hon'ble Sir,

Sub: Trust estate of jamunabai (discussion with the Hon'ble AG & OT) oral order by Hon'ble AG 8& OT vacating the premises. Door no;-151/A, Mint street Chennai-600 079,surrendering the possession.

*Re.: 1) Property bearing Door No;151/A, Mint Street Sowcarpet, Chennai-600079
2) Order of the Hon'ble High Court, Madras, made in Application Nos.5364 of 2011 and 4174 of 2012 dated 20.9.2017
3) Your notice dated;25.7.2019 bearing reference DAS No.1134/JAMU/OTHC/2019
4) Oral order given to me by the Hon'ble AG & OT during my appearance on 03-08-2019.*

Humbly Submitted.

I hereby submit as draw your kind attention to the oral order of the Hon'ble AG 8s OT Dated; 03-08-2019 during my appearance before the visit office of the AG & OT.

I submit that as order of the Hon'ble AG & OT, I have shifted all my belongings, along with pooja and seva items of my above said premises and hereby I am surrendering the keys to the Hon'ble AG & OT today as promised.

I submit that the other tenants of the said premises have not taken any steps to vacate the premises.

I humbly submit the said premises as to entrance gate and those gates are enable to lock since the remaining tenants and shops have not vacated, this for your kind information.

Being the trustee and beneficiary of the Trust estate of Jamunabai, I want to co-operate with the office of AG 8s OT orders of the Hon'ble High Court and as for your assurance given to me of the Hon'ble AG & OT.

I am heart fully surrendering the vacate possession to you.

I also promise that I will extend my entire co-operation for the benefit of the Trust estate of Jamunabai and to the orders of the Hon'ble High Court and Hon'ble AG & OT always.

Kindly acknowledge delivery of possession by us.

We also request you to bring to the notice of the Hon'ble Court the present status of the building and the fact that the tenants referred to above, are yet to comply with the order of the Hon'ble Court.

As stated, above, we have sought for permission to demolish the property and reconstruct it at our cost and utilise the property on the terms as fixed.

Yours sincerely

(VISHAL S.VED)

*(Here with surrendering the keys 4 NOS)
(KEY NO:1.953415, 2.5003, 3.141604, 4.M-4039&)"*

33. Thereafter, notice has been issued by the learned Official Trustee dated 21.08.2019 to all the tenants to vacate and handover possession. The said notice is extracted hereunder:

*"Office of the Administrator General and
Official Trustee of Tamil Nadu
High Court Campus, Chennai-104.*

Dis.No.1314/OTHC/2019

Dated:21.08.2019

NOTICE

Sub: Office of the Administrator General and Official

Trustee of Tamil Nadu, High Court Campus, Chennai-104 – Trust Estate of Jamunabai – Door No.151 A, Mint Street, Sowcarpet, Chennai-79 – Notice issued – Regarding.

- Ref: .1.Hon'ble High Court's Order in A.No.5364 of 2011 in O.P.No.88 of 1960, dt.12.4.2017.*
2. This office notice in Dis.No.470/Jamu/OTHC/2017, dt.27.04.2017
3. Hon'ble High Court's Order in A.No.5364 of 2017, A.No.4333, 4079 to 4082 of 2017 & A.No. 4174 of 2012 in O.P.No.88 of 1960, dt.12.4.2017.
4. This office notice in Dis.No.1174/Jamu/OTHC/2017, dt. 23.10.2017
5.This office notice in Dis.No.206/OTHC/2019, dt.12.02.2019.
6. This office notice in Dis.No.1131/Jamu/OTHC/2019, dt.25.07.2019

It is bring to your notice that the Hon'ble High Court vide its order cited in ref.1 & 3 directed all the tenants and beneficiary to vacate and handover the vacant possession to us. Since you have not vacated, the ref.6 final notice was given to you directing to vacate and handover the possession on or before 08.08.2019. Mr.Vishal S Ved has vacated the premises and handover the possession today i.e.21.08.2019 F.N. and the same was taken by us by sealing it.

Hence, all of you once again directed to vacate the premises and handover the said possession within a week i.e., on or before 30.08.2019 failing which we will take possession as per law.

OFFICIAL TRUSTEE OF TAMIL NADU

To:

1. Mr.Ratan Chand,
151 A, Mint Street,
Sowcarpet, Chennai -79

2.George Town Co-op
stores,
151 A, Mint Street,
Sowcarpet, Chennai -79

3.Mr.Mahendra Kumar,
64, Perumal Mudali
Street,
Sowcarpet, Chennai -79

4.Mr.Prakash,
151 A, Mint Street,
Sowcarpet, Chennai -79

5.Mr.K.Narapet,
64, Perumal Mudali
Street,
Sowcarpet, Chennai -79

6. Mr. Muralidhar Soni,
151 A, Mint Street,
Sowcarpet, Chennai -79

7. Mr. Jabbar Singh,
Proprietor,
Mahadev Bangles and
Rav Toy Games,
151 A, Mint Street,
Sowcarpet, Chennai -79

8. Subramanyam,
151 A, Mint Street,
Sowcarpet, Chennai -79"

34. To the above said notice, a reply has been sent by Mr.Muralidhar Soni, Mrs.Usha Devi and Mr.Mahendra Kumar. One such letter is reproduced hereunder:

"Dated: 21.08.2019

From

Mahendra Kumar
64, Perumal Mudali Street, Sowcarpet
Chennai - 600001.

To

The Administrator General
and Official Trustee of Tamil Nadu
High Court Campus, Chennai-104.

Sir,

Ref:O.P.No.88 of 1960, My Rep.dt.21.7.2019

I beg to request to permit me to continue my business till getting for plan approval for demolition and reconstruction from the authorities. I am always ready to cooperate for demolition and reconstruction. Keeping option open to get the repossession by availing the preemptive right; I also offer and undertake to pay rent at market rate in terms of the order of the Hon'ble High Court of Madras made in A.No.5364 of 2011 and A.No.4174 of 2012 and A.Nos.4079 to 4082 of 2017 in O.P.No.88 of 1960

dated 26.07.2017.

Further my willingness and readiness to pay the donation to put up the reconstruction may be considered by your office, since it is only towards the welfare and interest of the Trust.

Thanking you.

Yours faithfully"

35. From the above narration, it is deduced that though as early as on 2011, application has been filed in A.No.5364 of 2011 by the beneficiary for demolition and reconstruction of the property at Door No.151-A, Mint Street, Sowcarpet, Chennai – 600079 and this Court, vide order dated 12.04.2017, directed the learned Official Trustee to issue notice to the tenants to vacate the premises within a period of one month from the date of receipt of a copy of the said order and to undertake repair work or reconstruction as the case may be, tenants have not vacated.

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36. It is seen that pursuant to the said order dated 12.04.2017, learned Official Trustee issued notice dated 27.04.2017, directing the respondents 2 and 3 to hand over

vacant possession of the premises occupied by them immediately in compliance of the order of this Court.

37. Materials on record discloses that a proposal dated 15.06.2017 has been submitted by the applicant / beneficiary Mr.Vishal S.Ved for demolition and reconstruction and that he will effect payment of 25% of the rent derived to the learned Official Trustee and utilise the remaining 75% to offset the cost of the construction.

38. The said proposal has not been brought to the notice of this Court. Though subsequently, Mr.Vishal S.Ved son of the beneficiary has filed A.No.4179 of 2012, to direct the respondents 2 to 7 to vacate the respective portions under their occupation in the ground floor of the premises bearing Door No.151-A, Mint Street, Sowcarpet, Chennai - 600 079 to facilitate demolition and reconstruction by the applicant, Application Nos.4079 to 4082 of 2017 have been filed by the tenants seeking an order to redeliver the shops back to them after completion and fix the time limit for demolition and reconstruction of the

property as well as area to be given to the tenants.

39. This Court vide common order dated 26.07.2017, has passed the following order:

"4. It is the discretion of the Court, who is the custodian of the Trust property, to reallocate the subject property to the tenants. Depending upon the cost factor and other considerations, if the tenants, who are in occupation of the subject premises, are willing to offer the competitive market price, on par with others, their right of pre-emption will be considered, at the relevant point in time, in the process of allotment of the newly constructed building. If the tenants are unable to pay the competitive market price, then they cannot have the matter or right, to insist upon the re-delivery of the premises.

5. However, further two months time has been given to the tenants/applicants to vacate the subject premises to enable the authorities to proceed with the demolition and reconstruction.

6. Learned counsel appearing for the beneficiary of the Trust submits that he will file a proposal on the next date of hearing.

7. Post the matter next week for production of the proposal."

40. As stated supra, by common order, this Court has directed the Registry to list the matter within a week for production of the proposal.

41. Finally, on 20.09.2017, this Court has directed all the tenants to vacate and handover possession of the premises on or before 04.10.2017, failing which the Official Trustee has to take possession of the property.

42. In the foregoing paragraphs, we have extracted the notices issued by the learned Official Trustee to the tenants to handover vacant possession in compliance of the orders of this Court.

43. Nearly 2 years have lapsed since passing of the last order on 20.09.2017 and the tenants have not vacated and handed over vacant possession. Proposal has also been submitted and taken on record.

44. Contention of some of the tenants that the building is in good condition and therefore demolition and reconstruction is not required cannot be accepted for the reason that taking note of the submissions of the learned counsel for the applicant in A.No.5364 of 2011 dated 12.04.2017, this Court has already directed the learned Official Trustee to issue notices to the tenants for handing over vacant possession within one month from the date of receipt of a copy of the order and to undertake the repair or reconstruction as the case may be.

45. Contention of the tenants that they are willing to donate for the reconstruction also cannot be accepted for the reason that the beneficiary had already preferred A.No.5364 of 2011 in O.P.No.88 of 1960 seeking permission to effect demolition and reconstruct the property bearing Door No.151-A,

Mint Street, Sowcarpet, Chennai - 600079 and utilise the property on such terms as directed by this Court. Permission granted by this Court in A.No.5364 of 2011 dated 12.04.2017, cannot be altered at this juncture as there is no appeal filed against the said order and that the order made in A.No.5364 of 2011 dated 12.04.2017 has already reached its finality.

46. On the aspect of redelivery of the reconstructed building is concerned, it is to be noted that this Court while considering the prayer for redelivery of the shops back to the tenants after reconstruction of the building and fix time limit for demolition and reconstruction, at paragraph No.4 of the common order made in A.No.5364 of 2011, 4174 of 2012 and A.Nos.4079 to 4082 of 2017 dated 26.07.2017 ordered as hereunder:

"4. It is the discretion of the Court, who is the custodian of the Trust property, to reallocate the subject property to the tenants. Depending upon the cost factor and other considerations, if the tenants, who are in occupation of the subject premises, are willing to offer the competitive market price, on par with others, their right of pre-emption will be considered, at the relevant,

point in time, in the process of allotment of the newly constructed building. If the tenants are unable to pay the competitive market price, then they cannot have the matter or right, to insist upon the re-delivery of the premises."

47. Request of the tenants for re-delivery of the portions has also been considered by this Court and therefore, there is no necessity to delve into the said aspect of re-delivery and issue any fresh directions.

48. Prayer as sought for in the present application No.6488 of 2019 filed by George Town Co-operative Stores seeking for a direction to the learned Official Trustee of Tamil Nadu to issue a fresh notice granting sufficient time to vacate and handover possession for the purpose of demolition and reconstruction after getting the planning permission and building approval cannot be accepted for the reason that since 2017, tenants have not vacated the premises despite repeated notices and on perusal of the materials on record, it could be seen that the beneficiary Mr.Vishal S.Ved has been requesting the learned Official Trustee

to take action against the tenants for vacating and handing over possession.

49. Per contra, the tenants in their replies have stated that beneficiary Mr.Vishal S.Ved be vacated first and thereafter they would surrender possession. Thus, from the exchange of letters, it could be seen that they have not complied with the directions of this Court issued as early as in the year 2017 and managed to continue in the said premises.

50. Proposal said to have been submitted in the year 2017, as stated supra, has not been brought to the notice of this Court for direction. Further proposal dated 09.09.2019 contains the proposed plan, revised estimate, cost of construction for demolition etc., Proposal submitted today, with a copy to the tenants is taken on record.

51. A request has been made by the beneficiary for apportionment of cost of construction and rent in the year 2017 in A.No.5364 of 2011 and the beneficiary has sought permission

to effect demolition and re-construction of the property bearing Door No.151-A, Mint Street, Sowcarpet, Chennai – 600 079. But, in one of the replies sent to the learned Official Trustee, beneficiary in categorical terms has reiterated the said contention of demolition and reconstruction at their cost and utilise the property on the terms fixed. For brevity, contents of the letter dated 31.07.2019, addressed to the learned Official Trustee is reproduced:

"As stated above, we have sought for permission to demolish the property and reconstruct it at our cost and utilise the property on the terms as fixed. We have already undertaken and re-affirm the said under undertaking to vacate the first floor of the property to facilitate demolition and reconstruction within 15 days from the date on which the tenants under you, who are occupying various portions in the ground floor, vacate and deliver vacant possession to you."

This Court is not inclined to issue any direction as requested as it is for the beneficiary and the learned Official Trustee to discuss on the said issue.

52. In Application No.6488 of 2019, George Town Co-operative Stores, has sought for a direction to the learned Official Trustee of Tamil Nadu to issue fresh notice granting sufficient time to vacate and handover possession for the purpose of demolition and reconstruction after getting the planning permission and building approval.

53. Even in 2011, building is stated to have been in dilapidated condition. Eight years have passed since the filing of the Application No.5364 of 2011 and on the orders passed therein, several notices have been issued. Prayer to issue a fresh notice cannot be granted and that to after getting planning permission and building approval. Vacating and handing over possession does not require the approval for planning permission as both can go simultaneously.

54. Mr.R.Priyakumar, learned counsel appearing for the tenants submitted that they have already given their consent for vacating and handing over the tenancy premises on or before 20.01.2020. Mr.Vishal S.Ved has already vacated and handed

over vacant possession to the learned Official Trustee, is recorded.

55. In the light of the orders passed earlier, this Court is of the view that undertaking given to this Court by the applicants herein should be scrupulously complied with in letter and spirit. It is also made clear that no further time would be granted.

56. In the light of the above discussion, there shall be a direction to the tenants in the premises at Door No.151-A, Mint Street, Sowcarpet, Chennai – 600079 and Door No.64, Perumal Mudali Street, Sowcarpet, Chennai – 600079, to handover vacant possession of the above premises on or before 20.01.2020. In as much as the proposal which has been submitted by Mr.Vishal S.Ved, beneficiary for demolition and reconstruction of the building at Door No.151-A, Mint Street, Sowcarpet, Chennai – 600079 and Door No.64, Perumal Mudali Street, Sowcarpet, Chennai – 600079 is concerned, the learned Official Trustee is directed to make necessary arrangements for submission of necessary application to the Corporation of Chennai for getting

appropriate orders for demolition and reconstruction and approval of building plan. The said exercise has to be done within fifteen days from the date of receipt of a copy of this order. In so far as redelivery of the reconstructed premises is concerned, as observed earlier, paragraph No.4 of the common order made in A.No.5364 of 2011 dated 26.07.2017, takes care of the grievances of the tenants. Beneficiary who has undertaken to demolish and reconstruct the premises, is directed to place the accounts with supporting documents to the learned Administrator General and Official Trustee periodically once in three months.

57. With the above directions, all the applications are disposed of.

kk

09.09.2019

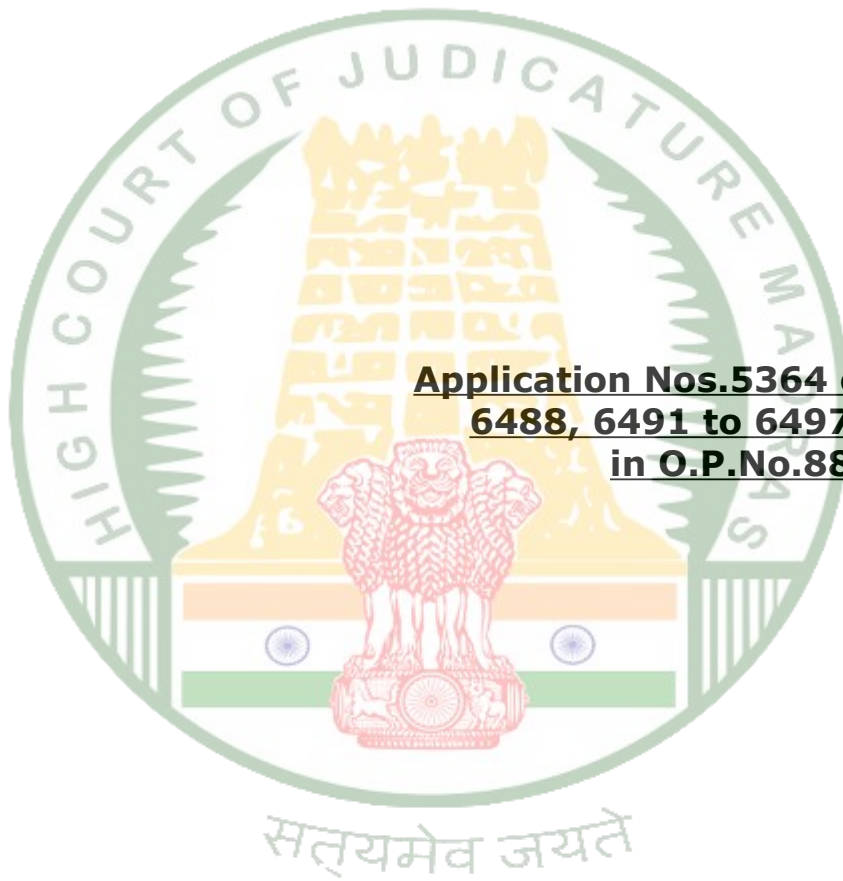
Note: Issue order copy on or before 18.09.2019.

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A.No.5364 of 2011 etc batch

S.MANIKUMAR, J.

kk



Application Nos.5364 of 2011,
6488, 6491 to 6497 of 2019
in O.P.No.88 of 1960

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09.09.2019