

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.4587 of 2019
and
W.M.P.No.5188 of 2019

P.Ragupathi ... Petitioner

Vs.

1.The District Collector,
Thiruvarur District,
Thiruvarur.

2.The Commissioner of Municipality,
Office of the Commissioner of Municipality,
Thiruvarur Municipality,
Thiruvarur District, Thiruvarur.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, issuance of a Writ of Mandamus, directing the respondents not to take any steps regarding the demolishing of Thazhai Mu.Karunanidhi Commercial Complex situated at Panagal Road, Thiruvarur-610001 till the 2nd respondent receives a proper report regarding the building condition of Thazhai Mu.Karunanidhi Commercial Complex.

For Petitioner : Mr.Sathish

For R1 : Mr.E.Manoharan,
Additional Government Pleader

For R2 : Mr.P.Srinivas
Standing Counsel for
Municipalities

O R D E R

(Order of this Court was made by SUBRAMONIUM PRASAD, J.)

Instant public interest litigation has been filed for a Writ of Mandamus, directing the respondents, not to take any steps,

regarding the demolishing of Thazhai Mu.Karunanidhi Commercial Complex, situated at Panangal road, Thiruvarur, till the Commissioner of Municipality, Thiruvarur Municipality, Thiruvarur District, second respondent herein, receives a proper report regarding the building condition of Thazhai Mu.Karunanidhi Commercial Complex.

2. The petitioner states that he is a Ex-Member of the Thiruvarur Municipality. According to him, Thazhai Mu.Karunanidhi Commercial Complex is situated at Panangal Road, Thiruvarur and in the said Commercial Complex, several shops are functioning for a number of years. He states that he came to know through an article in Daily Thanthi newspaper dated 01.12.2018 that tender has been called for demolishing the Thazhai Mu.Karunanidhi Commercial Complex.

3. According to him, livelihood of several persons, will be affected if the Commercial Complex is demolished. It is stated by him that he approached the Municipality Office in person and asked the reasons for demolishing the said complex. He was informed that the decision to demolish the building, has been taken when the Court passed a direction in W.P.No.11021 of 2018. He would state that the assessment of the condition of building has not been done properly.

4. Material on record discloses that writ petition No.11021 of 2018, was filed for a direction to the respondents to close the two wheeler stand situated at the back side of Thazhai M.Karunanidhi Commercial Complex, Panagal Road, Thiruvarur.

5. This Court after perusing the photographs appended to the typed set of documents, came to conclusion that the said building is in a dilapidated condition. This Court directed the respondents to dispose of the representation of the petitioner in W.P.No.11021 of 2018, dated 20.03.2018, in accordance with law and communicate the decision taken on the representation of the petitioner therein and also to file a action taken report to demolish the above said dilapidated structure.

6. A perusal of the order would show that it has nothing to do with the present decision of the Municipality to demolish the Commercial Complex.

7. In any event, this Court directed the Municipality to file a status report. The status report would show that the Thazhai Mu.Karunanidhi Commercial Complex, was proposed to be demolished because of the condition of the building. The University/Colleges of Engineering, Anna University, was directed to study the complex and give a report on stability.

The inspection description and the conclusions and recommendation of the said report, reads as under:-

"13. Inspection Description:

We the staff members of Anna University on 18.09.2018 - Tuesday inspected the Shopping Complex Building at Thiruvavarur Municipality. The following defects were found.

i) The Roof slab has been corroded and the concrete is getting bulging and fell off and cracks are found on the wall.

ii) Roads of the first floor columns are corroded and the concrete fell off.

iii) Ground floor slab and the accompanying columns are found to be weak due to corrosion

iv) Only minimum amount of strong components are found.

Therefore from the point we conclude that the structure is found to be unsafe and it can't be weak anymore in the future.

14. Conclusion and Recommendation:

Only minimum amount of strong components are found. Hence the structure stability is very weak. Therefore from there point we conclude that the structure is found to be unsafe and it can't be used anymore in the future. The inspection committee is strongly recommended to dismantle the above structure."

8. A perusal of the report would show that the instant writ petition is an abuse of process of law, which has been filed only to ensure that the building is not demolished. It is apparent that the petitioner has filed the instant writ petition on behalf of some persons having a vested interest in the case and who wanted to delay the proposal for demolition of the building.

9. A perusal of the affidavit would also show that no material has been produced regarding the condition of building to substantiate the contention that the building does not require demolition. Bald averments have been made in the writ petition that the decision for demolition of the building has been taken without their being any assessment of the condition of the building.

10. The writ petition therefore deserves to be dismissed and accordingly the same is dismissed with a cost of Rs.5,000/-, to be paid by the petitioner, to the account of Juvenile Justice Fund, Director of Social Defence, Ministry of Social Welfare, Government of Tamilnadu, Kellys, Kilpauk, Chennai-600 010, within ten days from today, failing which, the District

Collector, Thiruvarur, first respondent herein, is directed to take proceedings, under the Revenue Recovery Act. No Costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
Thiruvarur District,
Thiruvarur.

2.The Commissioner of Municipality,
Office of the Commissioner of Municipality,
Thiruvarur Municipality,
Thiruvarur District, Thiruvarur.

+1cc to M/S.U.Sathish, Advocate Sr.18043
+1cc to Mr.P.Srinivas, Advocate Sr.18031
+1cc to the Government Pleader Sr.18176

W.P.No.4587 of 2019
and
W.M.P.No.5188 of 2019

kj[co]
srg 4/03/2019

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