

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2019

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 18177 of 2018

M.C. Subramaniam

... Petitioner

-vs-

1. The Collector,
Erode District,
Perundurai Road,
Erode 638 011.

2. The Revenue Divisional Officer,
Erode District,
Erode Town,
Erode 638 001.

3. The Tahsildar,
Perundurai Taluk,
Perundurai 638 052,
Erode District.

4. The Executive Engineer, PWD
Buildings & Maintenance Division,
Collectorate Office Campus,
Perundurai Road, Erode District,
Pin 638 011.

5. T. Senthilkumar ... Respondents
(R5 impleaded vide order dated 08.02.2019
made in W.M.P. No. 34958 of 2018)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Respondents 1 to 4 to conduct re-inspection with regard to the structural condition/stability of the Balamurugan Theatre premises situated at Uppukkadu, Ingur Road, Chennimalai, in the presence of all parties and to give proper report and consequently, issue an order of demolition of Balamurugan theatre premises based on the Petitioner appeal dated 03.01.2018 submitted to the 1st Respondent and another appeal dated

05.02.2018 submitted to the 2nd Respondent, wherein the 11 defects/damages have been pointed out, within a time frame fixed by this Court.

For Petitioner :Mr. V. Bhiman,
for M/s. Sampathkumar and Associates

For Respondents :Mr. R. Venkatesh,
Government Advocate (for R1 to R4)

No appearance (For R5)

O R D E R

Heard Mr. V. Bhiman, Learned Counsel appearing for the Petitioner and Mr. R. Venkatesh, Learned Government Advocate appearing for the First to Fourth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed for a direction to the First to Fourth Respondents to conduct re-inspection with regard to the structural condition/stability of the Balamurugan Theatre premises situated at Uppukkadu, Ingur Road, Chennimalai, in the presence of all parties and to give proper report and to consequently issue an order of demolition of Balamurugan Theatre premises based on the appeal dated 03.01.2018 preferred by the Petitioner before the First Respondent and another appeal dated 05.02.2018 preferred by the Petitioner before the Second Respondent, within a time frame fixed by this Court.

3. This Court during the earlier hearing on 02.08.2019, passed the following self-explanatory order:-

"3. Learned Counsel for the Petitioner submits that the premises is in dilapidated condition and he also produced photographs of the same. The Fifth Respondent is another co-owner of the building, who has been served with private notice in this Writ Petition, but has not entered appearance.

4. Learned Additional Government Pleader appearing for the First to Fourth Respondents submits that in view of the fact that the Fifth Respondent has not given consent for the demolition of the premises, order of demolition could not be granted. At the same time, it is also necessary that the physical condition of the premises must be ascertained. In such circumstances, after giving notice to the Petitioner

and the Fifth Respondent, the Second Respondent shall inspect the property and file a report along with photographs and video by 04.09.2019."

4. It is represented by the Learned Counsel for the parties that pursuant to the aforesaid order, inspection of the property has been conducted and Status Report dated 06.09.2019 has been filed by the Second Respondent with necessary details of the dilapidated condition of the building. Subsequently, the Petitioner has filed another Writ Petition in W.P. No. 28662 of 2019 seeking direction to the concerned authorities to issue demolition order as per Section 128 of the Tamil Nadu Panchayats Act, 1994, in view of the aforesaid Status Report dated 06.09.2019 filed by the Second and Third Respondents along with the report dated 30.08.2019 filed by the Fourth Respondent pursuant to the directions of this Court in the order dated 02.08.2019 in W.P. No. 18177 of 2018, at the cost of the Petitioner, within a time frame fixed by this Court.

5. In view of the aforesaid subsequent events, nothing remains for further consideration in this Writ Petition, which shall stand disposed. No costs.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Collector,
Erode District,
Perundurai Road,
Erode 638 011.
2. The Revenue Divisional Officer,
Erode District,
Erode Town,
Erode 638 001.
3. The Tahsildar,
Perundurai Taluk,
Perundurai 638 052,
Erode District.

4. The Executive Engineer, PWD
Buildings & Maintenance Division,
Collectorate Office Campus,
Perundurai Road, Erode District,
Pin 638 011.

+1cc to the Government Pleader SR.95137/19

W.P. No. 18177 of 2018

GP(CO)
CB(18/11/2019)