

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 07.08.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.22493, 22494, 22501, 22503, 22507 of 2019
and
WMP.Nos.21894, 21897,21895,21896,21904, 21906, 21911,21912,21916
and 21917 of 2019

T.Baskaran ... Petitioner in W.P.No.22493 of 2019
K.Rukmani ... Petitioner in W.P.No.22494 of 2019
S.Sivakumar ... Petitioner in W.P.No.22501 of 2019
S.Johnson ... Petitioner in W.P.No.22503 of 2019
Chitrakala ... Petitioner in W.P.No.22507 of 2019

-Vs-

1. The Deputy Collector (Revenue)
Cum Sub-Divisional Magistrate,
Office of the Deputy Collector,
Karaikal.
2. The Sub-Collector (Revenue)
Office of the Sub-Collector,
Karaikal.
3. The Commissioner of Municipality,
Officer of the Commissioner of Municipality,
Karaikal Municipality, Karaikal.
4. The Tahsildar,
Office of the Tahsildar,
Karaikal.
5. The Executive Engineer,
Buildings and Roads Division,
Public Works Department,
Karaikal.
6. The Administrator,
Hajee Moona Thambi Saiboo Maraikayar Trust,
No.89, Kamarajar Salai,
Karaikal. ... Respondents in all W.P.s

Common Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, calling for the entire records connected with the impugned order passed by the first respondent in Case No.159 of 2017 dated 05.07.2019 and quash the same.

W.P.No.22498 of 2019

and

WMP.Nos.21898 and 21901 of 2019

S.Juliet Marry

... Petitioner

-Vs-

1. The Deputy Collector (Revenue)
Cum Sub-Divisional Magistrate,
Office of the Deputy Collector,
Karaikal.
2. The Sub-Collector (Revenue)
Office of the Sub-Collector,
Karakal.
3. The Commissioner of Municipality,
Officer of the Commissioner of Municipality,
Karaikal Municipality, Karaikal.
4. The Tahsildar,
Office of the Tahsildar,
Karaikal.
5. The Executive Engineer,
Buildings and Roads Division,
Public Works Department,
Karaikal.
6. The Administrator,
Hajee Moona Thambi Saiboo Maraikayar Trust,
No.89, Kamarajar Salai,
Karaikal.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, calling for the entire records connected with the impugned order passed by the first respondent in Case No.159 of 2017 dated 05.07.2019 and quash the same.

W.P.No.22499 of 2019

and

WMP.Nos.21903 and 21908 of 2019

S.Murugadass

... Petitioner

-Vs-

1. The Deputy Collector (Revenue)
Cum Sub-Divisional Magistrate,
Office of the Deputy Collector,
Karaikal.
2. The Sub-Collector (Revenue)
Office of the Sub-Collector,
Karaikal.
3. The Commissioner of Municipality,
Officer of the Commissioner of Municipality,
Karaikal Municipality,
Karaikal.
4. The Tahsildar,
Office of the Tahsildar,
Karaikal.
5. The Executive Engineer,
Buildings and Roads Division,
Public Works Department,
Karaikal.
6. The Administrator,
Hajee Moona Thambi Saiboo Maraikayar Trust,
No.89, Kamarajar Salai, Karaikal.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, calling for the entire records connected with the impugned order passed by the first respondent in Case No.159 of 2017 dated 05.07.2019 and quash the same.

W.P Nos.22502,22510,22515,22525 & 22528 of 2019
and

W.M.P.Nos.21913,21918,21924,21926,21932,21936,21946,21948,21951
& 21956 of 2019

S.Ilangovan	... Petitioner in W.P.No.22502/2019
T.Vijaya	... Petitioner in W.P.No.22510/2019
T.Vengatesan	... Petitioner in W.P.No.22515/2019
Abdul Hak	... Petitioner in W.P.No.22525/2019
R.Krishnakumari	... Petitioner in W.P.No.22528/2019

vs.

- 1.The Deputy collector (Revenue)
Cum Sub-Divisional Magistrate,
Office of the Deputy Collector,
Karaikal.
- 2.The Sub-Collector (Revenue)
Office of the Sub-Collector,
Karaikal.
- 3.The Commissioner of Municipality,
Office of the Commissioner of Municipality,
Karaikal Municipality,
Karaikal.
- 4.The Tahsildar,
Office of the Thasildar,
Karaikal.
- 5.The Executive Engineer,
Buildings and Roads Division,
Public Works Department,
Karaikal.
- 6.The Administrator,
Hajee Moona Thambi Saiboo Maraikayar Trust
No.89, Kamarajar Salai,
Karaikal.

...Respondents in all W.P.Nos.

COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the entire records connected with the Impugned Order passed by the 1st respondent in Case No.159 of 2017 dated 05.07.2019 and quash the same.

W.P No.22521 of 2019
and W.M.P.Nos.21939 & 21940 of 2019

P.Sawrirajan ... Petitioner
vs.

- 1.The Deputy collector (Revenue)
Cum Sub-Divisional Magistrate,
Office of the Deputy Collector,
Karaikal.
- 2.The Sub-Collector (Revenue)
Office of the Sub-Collector,
Karaikal.

3.The Commissioner of Municipality,
Office of the Commissioner of Municipality,
Karaikal Municipality,
Karaikal.

4.The Tahsildar,
Office of the Thasildar,
Karaikal.

5.The Executive Engineer,
Buildings and Roads Division,
Public Works Department,
Karaikal.

6.The Administrator,
Hajee Moona Thambi Saiboo Maraikayar Trust
No.89, Kamarajar Salai,
Karaikal. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the
Constitution of India, praying to issue a Writ of Certiorari
calling for the entire records connected with the Impugned Order
passed by the 1st respondent in Case No.159 of 2017 dated
05.07.2019 and quash the same.

W.P No.22524 of 2019
and W.M.P.Nos.21941 & 21942 of 2019

Punithavalli ... Petitioner
vs.

1.The Deputy collector (Revenue)
Cum Sub-Divisional Magistrate,
Office of the Deputy Collector,
Karaikal.

2.The Sub-Collector (Revenue)
Office of the Sub-Collector,
Karaikal.

3.The Commissioner of Municipality,
Office of the Commissioner of Municipality,
Karaikal Municipality,
Karaikal.

4.The Tahsildar,
Office of the Thasildar,
Karaikal.

5.The Executive Engineer,
Buildings and Roads Division,
Public Works Department,
Karaikal.

6.The Administrator,
Hajee Moona Thambi Saiboo Maraikayar Trust
No.89, Kamarajar Salai,
Karaikal.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the entire records connected with the Impugned Order passed by the 1st respondent in Case No.159 of 2017 dated 05.07.2019 and quash the same.

W.P No.22530 of 2019
and W.M.P.Nos.21955 & 21958 of 2019

A.Kaliyamoorthy

... Petitioner

vs.

1.The Deputy collector (Revenue)
Cum Sub-Divisional Magistrate,
Office of the Deputy Collector,
Karaikal.

2.The Sub-Collector (Revenue)
Office of the Sub-Collector,
Karaikal.

3.The Commissioner of Municipality,
Office of the Commissioner of Municipality,
Karaikal Municipality,
Karaikal.

4.The Tahsildar,
Office of the Thasildar,
Karaikal.

5.The Executive Engineer,
Buildings and Roads Division,
Public Works Department,
Karaikal.

6.The Administrator,
Hajee Moona Thambi Saiboo Maraikayar Trust
No.89, Kamarajar Salai,
Karaikal.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the entire records connected with the Impugned Order passed by the 1st respondent in Case No.159 of 2017 dated 05.07.2019 and quash the same.

W.P Nos.22550,22552,22555,22561 & 22564 of 2019
and

W.M.P.Nos.21977,21978,21979,21980,21984,21982,21988,21989,21991
& 21993 of 2019

S.Sundar ... Petitioner in W.P.No.22550

Gunasekaran ... Petitioner in W.P.No.22552

Gulam Mohamed ... Petitioner in W.P.No.22555

K.Krishnan ... Petitioner in W.P.No.22561

D.Kamala ... Petitioner in W.P.No.22564

vs.

1.The Deputy collector (Revenue)
Cum Sub-Divisional Magistrate,
Office of the Deputy Collector,
Karaikal.

2.The Sub-Collector (Revenue)
Office of the Sub-Collector,
Karaikal.

3.The Commissioner of Municipality,
Office of the Commissioner of Municipality,
Karaikal Municipality,
Karaikal.

4.The Tahsildar,
Office of the Thasildar,
Karaikal.

5.The Executive Engineer,
Buildings and Roads Division,
Public Works Department,
Karaikal.

6.The Administrator,
Hajee Moona Thambi Saiboo Maraikayar Trust
No.89, Kamarajar Salai,
Karaikal.

...Respondents in all W.P.Nos.

COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the entire records connected with the Impugned Order passed by the 1st respondent in Case No.159 of 2017 dated 05.07.2019 and quash the same.

For Petitioner/s (in all W.Ps): M/s. Greetha Senthilkumar

For Respondents (in all W.Ps): Mr.D.Bharathachakravathy
Public Prosecutor (Puducherry)
for R1 to R5

COMMON ORDER

All these writ petitions have been filed challenging the impugned order passed by the 1st respondent, wherein, the occupants of the building have been directed to vacate and hand over the premises, on the ground that the building is in a very dilapidated condition.

2. All the writ petitioners claim to run small shops in the building and they eke out their livelihood only from the income which they receive from the business. The building in question is more than 100 years and it was in a very dilapidated condition. A survey was conducted by the revenue authorities and a report was submitted in the year 2016 stating that the building is in a very bad condition and it will crumble any time. Based on this report, the 1st respondent passed an order dated 16.10.2018, directing the Administrator of the Trust to take steps to evict the tenants from the building and demolish the building.

3. The grievance of the petitioners is that none of the proceedings were brought to the knowledge of the occupants and they were not heard before orders were passed by the 1st respondent in the year 2018.

4. In continuation to the orders passed in the year 2018, the 1st respondent passed the consequential order on 05.07.2019 under Section 133, 134, 135, 136, 141 of Cr.PC and directed the residents and shop owners to vacate the building within a period of 30 days. Aggrieved by the same, the present writ petitions have been filed before this Court.

5. The learned counsel for the petitioners submitted that if the petitioners had been put on notice in the year 2016 itself, the petitioners would have made arrangements to look for an alternative accommodation. The petitioners were kept in dark till 2019 and at the last minute, the impugned order has been

passed by the 1st respondent giving only 30 days time for the petitioners to vacate and hand over possession. The learned counsel further submitted that the livelihood of the petitioners is totally dependent upon the income which they earn from the business. If the petitioners are evicted all of a sudden, the petitioners will be left in the streets without any alternative accommodation and the same is in violation of Article 21 of Constitution of India.

6. The learned Public Prosecutor appearing on behalf of the respondent submitted that even though the Government machinery is aware about the hardships that will be faced by the occupants of the building, the 1st respondent has taken into consideration the larger interest of the danger that the dilapidated building could cause to the lives of the occupants. The learned counsel further submitted that the Collector is already seized of the matter and steps are being taken to find alternative accommodation for those persons who were actually residing in the property. The learned counsel therefore submitted that the order of the 1st respondent should not be interfered by this Court at this stage, since the building may not survive during the ensuing monsoon.

7. This Court has carefully considered the submissions made on either side and perused the materials placed on record.

8. It is true that the petitioners should have been put on notice in the year 2016 itself so that the petitioners could have looked for an alternative accommodation. The petitioners got the news only in the year 2019 and they had a very short time to respond and find out an alternative accommodation. However, this Court has to take into consideration the undisputed fact that the building in question is in a very dilapidated condition and if any untoward incident happens during monsoon, innocent lives will be lost and the government will be held responsible for the same. Therefore, the State machinery has to necessarily take immediate steps to evict the occupants and demolish the building.

9. On the one hand, the livelihood of the occupants is involved and on the other hand, it involves the lives of the occupants. In the considered view of this Court, the latter is more important since without living there is no question of livelihood.

10. In view of the above, this Court is not inclined to interfere with the order of the 1st respondent. However, in order to ensure that the livelihood of the petitioners is taken care, it will be open to the petitioners to make individual representations before the District Collector, Karaikkal

explaining the number of years they have been doing business along with supporting materials and the District Collector is requested to consider the representation and act upon the same taking into consideration the livelihood of the petitioners. This Court is sure that the District Collector, Karaikkal, will look into the matter purely on humanitarian considerations. The petitioners shall also be given sufficient time to vacate the premises.

11. All these writ petitions are disposed of with the above directions. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Collector (Revenue)
Cum Sub-Divisional Magistrate,
Office of the Deputy Collector,
Karaikal.
2. The Sub-Collector (Revenue)
Office of the Sub-Collector,
Karakal.
3. The Commissioner of Municipality,
Officer of the Commissioner of Municipality,
Karaikal Municipality,
Karaikal.
4. The Tahsildar,
Office of the Tahsildar,
Karaikal.
5. The Executive Engineer,
Buildings and Roads Division,
Public Works Department,
Karaikal.
6. The Administrator,
Hajee Moona Thambi Saiboo Maraikayar Trust,
No.89, Kamarajar Salai, Karaikal.

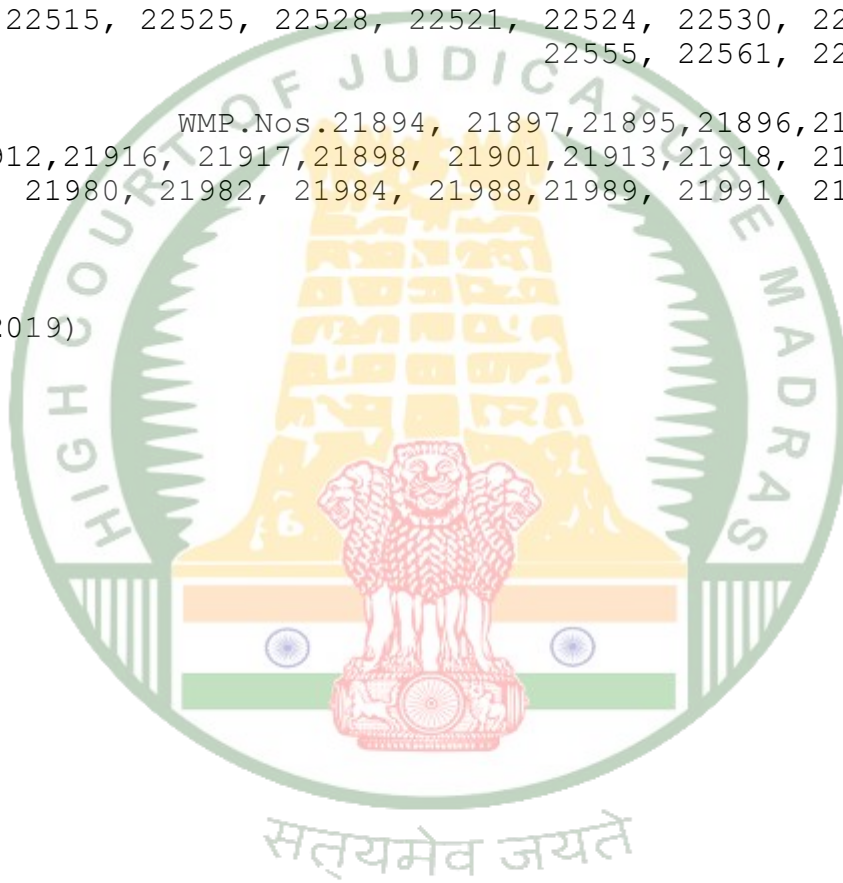
Copy To

The District Collector,
Karaikal.

+1cc to Mr.Greetha Senthil Kumar, Advocate, S.R.No. 67691
+3cc to The Public Prosecutor(Pondicherry), S.R.No. 68165,
68166, 68152

W.P.No.22493, 22494, 22501, 22503, 22507, 22498, 22499, 22502,
22510, 22515, 22525, 22528, 22521, 22524, 22530, 22550, 22552,
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WMP.Nos.21894, 21897,21895,21896,21904, 21906,
21911,21912,21916, 21917,21898, 21901,21913,21918, 21977, 21978,
21979, 21980,21982, 21984, 21988,21989, 21991, 21993 of 2019

RJI (CO)
GN(13/08/2019)



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