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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2019

CORAM

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

W.P.NO.27815 OF 2019

AND

W.M.P.NO.27362 OF 2019

D.Jayakumar

... Petitioner

-vs-

1. The District Collector,
Thiruvallur District.
2. The Inspector of Police,
M-4, Redhills Police Station,
Redhills,
Chennai - 600 052.
3. The Estate Officer,
Waqf House,
No. 1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai - 600 001.
4. The Muslim Committee Masjid-e-Islamia,
Rep. by its Secretary Ismail,
Old No. 106, New No. 17,
G.N.T. Road,
Redhills,
Chennai - 600 052.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Respondents jointly and severally to pay compensation of Rs.45,00,000/- for illegally demolish the superstructure of Petitioner's premises situated at No. 130, GNT Road, Naravarikuppam Village, Redhills, Chennai - 600 052 in survey number 97/B, measuring 300 sq. ft. and restore the possession.



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For Petitioner : Mr.A.Meenakshi Sundaram
For Respondents : Mr.M.Karthikeyan,
Additional Government Pleader
(for R1 to R3)

O R D E R

Heard Mr.A.Meenakshi Sundaram, Learned Counsel for the Petitioner and Mr.M.Karthikeyan, Learned Additional Government Pleader, who takes notice for the First to Third Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The complaint of the Petitioner in the Writ Petition is that the Third and Fourth Respondents with the assistance of the First and Second Respondents have illegally demolished the building, which was occupied by him and has sought for compensation of Rs.45,00,000/- for the same. It is borne out from the records that the Petitioner has suffered an order of eviction from the premises in his occupation in the proceedings in case No. PP/12/Tvlr/2012 dated 29.04.2015 passed by the Third Respondent that had been initiated under the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975, by the Fourth Respondent, which had been confirmed in appeal by order dated 24.10.2018 in P.P.C.M.A. No. 9 of 2015 passed by the Principal District Judge, Thiruvallur, which is now the subject matter of Civil Revision Petition in C.R.P. (NPD) No. 2551 of 2019 before this Court. The contention of the Petitioner is that by order dated 01.08.2019 in C.M.P. No. 16796 of 2019 in C.R.P. (NPD) No. 2551 of 2019, this Court has passed an interim stay of the eviction proceedings, but on the same day, the building occupied by the Petitioner has been demolished by the Third and Fourth Respondents.

3. In response to the aforesaid contentions, Learned Additional Government Pleader appearing for the First to Third Respondents, on instructions, states that a request had been received from the Fourth Respondent by letter dated 27.09.2019 requesting to give police protection to carry out the demolition of the building occupied by the Petitioner at 11.00 a.m. on 01.08.2019 in pursuance of the order of eviction passed by the Third Respondent, which had been confirmed by the Appellate Authority and that the First and Second Respondents had not assisted the Fourth Respondent in any manner for the demolition of the building occupied by the Petitioner. It is further stated that the Petitioner had produced a copy of the order dated 01.08.2019 in C.M.P. No. 16796 of 2019 in C.R.P. (NPD) No. 2551 of 2019 passed by this Court before the Second Respondent only



after the demolition of the building had been completed on that day (01.08.2019).

4. It is evident from the aforesaid narration of events that it is a disputed question of fact as to whether the demolition had been carried out after the aforesaid order dated 01.08.2019 in C.M.P. No. 16796 of 2019 in C.R.P. (NPD) No. 2551 of 2019 had been passed by this Court, which has to be decided only after recording of evidence of the parties on their rival contentions and could not be redressed by invoking the summary procedure followed under Article 226 of the Constitution. That apart, as pointed out by the Hon'ble Supreme Court of India in Shree Chamundi Mopeds Ltd., -vs- Church or South India Trust Assn., (AIR 1992 SC 1439), unlike quashing of an order which results in restoration of the position as it stood when it was passed, an order of interim stay of the order impugned in that proceeding cannot have the effect of wiping out the impugned order from existence, which would mean that the Petitioner has to await the ultimate outcome of the decision in C.R.P. (NPD) No. 2551 of 2019, if he intends to claim restitution that has been sought in this Writ Petition.

5. In that view of the matter, the Writ Petition, which cannot be entertained, is dismissed at the admission stage. However, it is made clear that no view has been expressed by this Court on the correctness or entitlement on the merits of the claim for restitution made by the Petitioner. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vjt

To

1. The District Collector,
Thiruvallur District.
2. The Inspector of Police,
M-4, Redhills Police Station,
Redhills,
Chennai - 600 052.



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3. The Estate Officer,
Waqf House,
No. 1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai - 600 001.

4. The Secretary,
Muslim Committee Masjid-e-Islamia,
Old No. 106, New No. 17,
G.N.T. Road,
Redhills,
Chennai - 600 052.

+1cc to Mr.A.Meenakshi Sundaram, Advocate, S.R.No.81444

W.P.No.27815 of 2019

BP(CO)
CS/09/01/2020