

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2019

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.33704 of 2017

and

W.M.P.No.37323 of 2017

1. Mr.Calve Sateesh

2. Mrs.Gayathri ... Petitioners

-Vs-

1. The Commissioner
Greater Chennai Corporation
Rippon Buildings, Chennai-3

2. The Assistant Engineer
Chennai Corporation
Zone 5, Broadway
Chennai-108.

3. M/s.Firoz and Brothers
Old No.111, New No.209
Broadway, Chennai-600 108

4. M/s.Siamwala Agencies
Rep. by its Proprietrix, Mrs.Razia Siamwala
W/o.Mr.Saleh Siamwala
No.111/A, New No.209, Broadway
Chennai 600 108.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus, directing the respondents 1 & 2 to take appropriate action to evict the occupants in the premises, viz. Door No.111/A, New No.209, Broadway, Chennai 600 108, in accordance with law.

For Petitioners : Ms.C.Uma Shankar

For Respondents : Mr.R.Arunmozhi,
Standing Counsel - for R1 & R2

Mr.M.Boopathy - for R3

Mr.S.Dinesh Kumar - for R4

O R D E R

(Order of the Court made by The Hon'ble Chief Justice
and M.DURAISWAMY, J.)

The petitioners have filed the above Writ Petition to issue a Writ of Mandamus, directing the respondent Nos 1 & 2 to take appropriate action to evict the occupants in the premises, viz. Door No.111/A, New No.209, Broadway, Chennai, in accordance with law.

2. It is the case of the petitioners that the above mentioned property was leased out to a tenant and after his demise, respondent Nos. 3 and 4 are in possession of the premises. Further, according to the petitioners, the premises is in a dilapidated condition and therefore, they filed a Rent Control Original Petition in R.C.O.P.No.1915 of 2013 on the file of XIV Judge, Court of Small Causes, Chennai, for eviction on the ground of demolition and reconstruction.

3. The Rent Controller, ordered eviction on 21.02.2017. Against which, respondent Nos. 3 and 4 have preferred appeal in R.C.A. No.294 of 2017, on the file of the VIII Judge, Court of Small Causes, Chennai and the same is pending.

4. That apart, the respondent No.4 filed a suit in O.S.No.4399 of 2016 on the file of the II Assistant Judge, City Civil Court, Chennai, for permanent injunction, restraining the petitioners herein, from interfering with the peaceful possession and enjoyment of the property, except under due process of law and the Trial Court, by judgment and decree dated 19.02.2018, decreed the suit as prayed for.

5. The learned counsel appearing for the petitioners submitted that against the judgment and decree passed in O.S.No.4399 of 2016, the petitioners have filed an appeal and the same is pending. While so, the petitioners have filed the present Writ Petition, seeking for a direction to the respondent Nos 1 & 2 to take appropriate action to evict the occupants.

6. When the petitioners have filed R.C.O.P.No.1915 of 2013 for eviction on the ground of demolition and reconstruction and an appeal is also pending as against the order passed by the Rent Controller, the present Writ Petition cannot be entertained. In any event, the respondent Nos. 1 and 2 have already issued a notice dated 12.04.2018 under section 258 of the Chennai City Municipal Corporation Act. Hence, it is open to the Corporation of Chennai to take appropriate action in accordance with the provisions of the Chennai City Municipal Corporation Act.

7. Since the petitioners have already filed Rent Control Original Petition for eviction of the respondent Nos. 3 and 4 on the ground of demolition and reconstruction under the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, the prayer sought for in the Writ Petition, cannot be granted. Accordingly, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Rj

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1 The Commissioner
Greater Chennai Corporation
Rippon Buildings, Chennai-3
- 2 The Assistant Engineer
Chennai Corporation
Zone 5, Broadway
Chennai-108

+1cc to Mr.C.Umashankar, Advocate, S.R.No.9244
+1cc to Mr.S.Jayasankar, Advocate, S.R.No.9316

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PA (CO)
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