



20BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2019

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.12841 of 2019

D.Nagarajan

...Petitioner

-Vs-

1. The District Collector,
Dindigul District,
Dindigul.
2. The Revenue Divisional Officer,
Dindigul District.
3. The Executive Engineer,
Public Works Department,
Dindigul District.
4. The Tahsildar,
Dindigul East Taluk,
Dindigul District.
5. The Commissioner,
Dindigul Corporation, Dindigul.

...Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the respondents to demolish the petitioner's buildings situated in Old T.S.No.95/13, New T.S.No.2039 situated at Nagal Nagar, Adiyanuthu Village, Dindigul in view of the dilapidated condition of the building in the light of the proceeding of the 3rd respondent dated 12.06.2018.

For Petitioner : Mr.R.Maheswaran
For Respondents : Mr.M.Rajarajan, G.A. For RR1 to 4
Mr.J.Lawrence, standing counsel
for R5

ORDER

The prayer in this writ petition is for a Writ of Mandamus, directing the respondents to demolish the petitioner's buildings situated in Old T.S.No.95/13, New T.S.No.2039 situated at Nagal Nagar, Adiyanuthu Village, Dindigul in view of the dilapidated condition of the building in the light of the proceeding of the 3rd respondent dated 12.06.2018.



2. Heard Mr.R.Maheswaran, learned counsel appearing for the petitioner and Mr.M.Rajarajan, learned Government Advocate appearing for the respondents 1 to 5 and Mr.J.Lawarance, learned standing counsel appearing for the 5th respondent.

3. The learned counsel appearing for the petitioner submits that, the petitioner is having building in old T.S.No.95/13 New T.S.No.2039 at Nagal Nagar, Adiyannuthu Village, Dindigul, which is in a dilapidated condition. Therefore, in order to demolish the building, the petitioner had approached the 3rd respondent, by giving representation dated 12.06.2018 and the same has been kept pending for a long time and no decision has been taken. Therefore, the petitioner is before this Court.

4. I have heard the learned Government Advocate appearing for the respondents 1 to 4, who would submit that, based on the representation given by the petitioner, the Tahsildar, i.e. the 4th respondent has directed the Executive Engineer, Public Works Department, i.e. the 3rd respondent to inspect the building in question and give a report. He has accordingly given a report dated 01.06.2018 stating that the building is unstable and the building is beyond repairable condition and the building is recommended for dismantling ensuring proper safety measures.

5. In view of the above, according to the learned Government Advocate, necessary permission has to be given by the 5th respondent Municipality.

6. However, the learned standing counsel appearing for the 5th respondent submitted that, insofar as the demolition of the building is concerned, it is for the petitioner to make an application to the 5th respondent after making necessary charges and thereafter, permission would be given to demolish the building in question on their own cost of the petitioner. He further added that some of the tenants are still there in the building. Therefore, in order to evacuate or vacate the premises, it is the duty of the petitioner in approaching the revenue authorities on the point of safety of the inhabitants, who are doing business in that building. Therefore, when the evacuation proceeding is taken place with the help of the revenue department, it is for the 5th respondent to take a decision to give permission to the petitioner to demolish the building.

7. I have heard the submissions made by the parties.

8. Insofar as the building in question is concerned, no doubt, the Executive Engineer, Public Works Department, i.e. the 3rd respondent has given a certificate after inspecting the building where, he has stated the following:

"With reference to the above East Tahsildar, Dindigul East Taluk letter cited above, the building



under consideration for stability was inspected by Assistant Executive Engineer, PWD., Buildings (C&M) Sub division, Dindigul and the status and stability of the building is examined and reported as follows:

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In view of the above the building is structurally not stable and the building is beyond repairable condition and hence the building is recommended for dismantling ensuring proper safety measures."

9. When such a certificate with regard to the safety of the people in question has been given by the 3rd respondent, based on which, the authorities should have acted upon, otherwise, it will have a repercussion for safety, not only of the tenants, but also neighbours passes by in the street. In view of the matter, this Court is inclined to pass the following order:

"The petitioner can make a request to the 5th respondent Municipality by proper application after paying the necessary fee and on receipt of the same, it shall be decided by the 5th respondent, of course, in consultation with the revenue department, especially, the 2nd and 4th respondents and while such consultation is taken place, the 2nd and 4th respondents, based on the report submitted by the 3rd respondent, can take a decision and according to the decision taken by the 2nd and 4th respondents, final order for giving permission to demolish the building can be passed by the 5th respondent Municipality and on receipt of the same, it is for the petitioner to demolish the building as per the direction and conditions imposed by the 5th respondent. It is made clear that before passing such order for demolition by the 5th respondent, the respondents jointly must see that the occupants there already in the building are safely evacuated or vacated and without evacuating and evicting them, no such demolition order shall be passed.

10. With this direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar (CS)



To

1. The District Collector,
Dindigul District,
Dindigul.
2. The Revenue Divisional Officer,
Dindigul District.
3. The Executive Engineer,
Public Works Department,
Dindigul District.
4. The Tahsildar,
Dindigul East Taluk,
Dindigul District.
5. The Commissioner,
Dindigul Corporation, Dindigul.

- + 1 CC TO Mr.R.Maheswaran, ADVOCATE IN SR No.68948
- + 1 CC TO Mr.J.Lawrence, ADVOCATE IN SR No.68712
- + 1 CC to The Special Government Pleader SR.No.68875

Order made in
W.P. (MD) No.12841 of 2019

Dated: **13.06.2019**

KS (24.06.2019) 4 P 9 C