



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **21.11.2019**

CORAM:

THE HONOURABLE MR.JUSTICE **M.GOVINDARAJ**

W.P. (MD)No.20946 of 2017

Chandra Bose

: Petitioner

Vs.

1.The Commissioner,
Trichy Municipal Corporation,
Trichy City.

2.The Assistant Commissioner (In-Charge),
Ko.Abhisekhapuram Division,
Trichy City.

3.Syed Nishamudeen

4.Devi

5.Sukumar

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the second respondent herein to implement the order made in Na.Ka.No.F1/10072/2007 (Ko.Abi), dated 28.09.2017 on his file by demolishing petitioner building situated at Door No.8/1 Srinivasanagar, Vayalur Main Road, Puthur, Trichy City, within the time stipulated by this Court.

For Petitioner

: Mr.M.Saravanakumar,
For Mr.T.Palanisamy

For Respondents 1&2

: Mr.N.S.Karthikeyan

For Respondents 3&4

: Mr.P.Arun Jayatram

For Respondent No.5

: Mr.R.Sundar Srinivasan



ORDER

The prayer in the Writ Petition is for a Writ of Mandamus, directing the second respondent herein to implement the order made in Na.Ka.No.F1/10072/2007 (Ko.Abi), dated 28.09.2017 on his file, by demolishing the petitioner's building situated at Door No.8/1 Srinivasanagar, Vayalur Main Road, Puthur, Trichy City, within the time stipulated by this Court.

2. Heard the submissions made on either side.

3. The petitioner's wife is the absolute owner of the building in question. Since the building is in dilapidated condition, the petitioner approached the second respondent seeking permission for demolition. On inspection, the second respondent, vide proceedings in Na.Ka.No.F1/10072/2007 (Ko.Abi), dated 28.09.2017, granted permission for demolishing the building, by taking necessary precaution. However, the tenants of the building have approached the Civil Court and obtained an order of injunction against the petitioner. In such circumstances, the petitioner has filed the present Writ Petition seeking the aforesaid relief.

4. Earlier, this Court, in order to find out the stability of the building, appointed an Advocate Commissioner vide order dated 16.10.2019.

5. As per the directions of this Court, the Advocate Commissioner has filed a report along with the report of the Civil Engineer regarding the stability of the building. As notified by the first respondent Corporation, the building is found to be in dilapidated condition. The tenants/respondents 3 to 5 herein sought for one year time for vacating and handing over possession of the premises. The landlord would object to it and submit that three months time can be granted.

6. Considering the facts and circumstances of the case and also considering the fact that the fifth respondent is running a hotel and it will take at least three months to find an alternative accommodation, this Court grants six months time **from today** for vacating and handing over possession. It is also made clear that the time given will not entitle the respondents 3 to 5 to continue free of rent. They have to clear the rental arrears, within a period of one month from today and continue to pay the rent till they hand over vacant possession.

7. The Writ Petition is disposed of with the above direction. No costs.

8. The respondents 3 to 5 are directed to file an affidavit

<https://hcservices.ecourts.gov.in/hcservices/>



of undertaking to the aforesaid effect on 26.11.2019.

9. Additional remuneration of Rs.25,000/- should be paid to the Advocate Commissioner.

10. Post the matter on 26.11.2019 '**for reporting compliance**'

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

SML

To

1.The Commissioner,
Trichy Municipal Corporation,
Trichy City.

2.The Assistant Commissioner (In-Charge),
Ko.Abhisekhpuram Division,
Trichy City.

Copy to:

1. The Section Officer,
Writ Section,
Madurai Bench of Madras High Court,
Madurai.

2. Mr.R.Devaraj,
Advocate Commissioner,
No.16, Lawyer Chamber,
Madurai Bench of Madras High Court,
Madurai. (Mobile No.94439 18333)

+2 CC to M/s.T.PALANISAMY, Advocate (SR-100467[F] dated 22/11/2019)

+1 CC to M/s.R.SUNDAR SRINIVASAN, Advocate (SR-100682[F] dated 22/11/2019)

Order made in
W.P. (MD) No.20946 of 2017
21.11.2019

JMN(22.11.2019) 3P : 8C