

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2020

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.9043 of 2020

and

W.M.P.Nos.10999 & 11000 of 2020

P.Sathish Kumar
S/o.M.Prabakaran

... Petitioner

vs

1. The Chairman,
(The District Collector),
The Committee Administration of
Jawans Market Committee,
Officers Line, Vellore -1,
Vellore District.
2. The Thasildar,
Vellore Taluk,
Vellore District.
3. The Assistant Director/Secretary,
Ex-Servicemen's Welfare Board,
Jawans Bhavan,
Officer's Line,
Vellore-1.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari to call for the entire records in pursuant to the proceedings in Na.Ka.P1/846/2020 dated 01.06.2020 issued by the second respondent and to quash the same.

For Petitioner : Mr.K.Suthan

For Respondents : Mr.R.Govindasamy
Special Government Pleader

O R D E R

This matter is taken up for hearing through Video Conferencing mode.

2. This writ petition is filed challenging the proceedings of the second respondent dated 01.06.2020, wherein and whereby the petitioner was directed to stop running the business in the subject matter premises and also to remove the belongings of the petitioner from the subject matter premises.

3. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents.

4. The case of the petitioner is as follows:

The petitioner is the owner of Food Zone/Super Market viz., Janani Big Bazar, which is being run in the subject matter premises. The property belongs to the third respondent, from whom he has taken the same on rent. While that being so, the third respondent has issued the impugned proceedings by stating that the building is in dilapidated condition, while in fact, it is not so.

5. The learned counsel for the petitioner further submitted that the petitioner is not a party in Second Appeal No.8 of 2020 and therefore, the said decision cannot be cited as the reason.

6. On the other hand, the learned Special Government Pleader appearing for the respondents submitted that the impugned proceedings was issued against the petitioner based on two reasons viz., the judgment delivered in S.A.No.8 of 2020 and also on the reason that the building is in dilapidated condition, which is not conducive for public use. Therefore, he submitted that the petitioner cannot question the impugned proceedings.

7. A careful perusal of the impugned proceedings would show two things as follows:

a) In Second Appeal No.8 of 2020, this Court passed an order, dismissing the said Second Appeal filed by one G.Duraisingh, with a direction to the appellant to hand over the possession of the suit scheduled properties to the respondents therein, who are the respondents 1 and 3 herein on or before 30.03.2020 and with further direction that the respondents therein are entitled to take possession, with the help of the police, if the appellant failed to hand over the possession within the stipulated time.

b) Perusal of the said decision further shows that the defendants therein produced the documents before this Court to show that the local body had issued a notice to demolish the

building. The petitioner herein, though not a party to the said Second Appeal, still he is another tenant in respect of the same building in a different portion.

8. When the competent Authority has issued a Certificate that the building is in dilapidated condition posing danger to the public for their use, the said Certificate has to be applied not only for one tenant viz., the appellant in the second appeal and also to the petitioner herein, though he is not a party in the said second appeal. Though the learned counsel for the petitioner sought to justify that the building is not in dilapidated condition by producing some photographs, I am not inclined to entertain such contention on the sole reason that in the above second appeal, this Court has perused the documents produced by the defendants therein showing that the local body had issued a notice to demolish the building. Until and unless such notice of demolition was questioned and set aside, the petitioner is not entitled to challenge the present impugned proceedings, which is only a consequential act of the second respondent. Therefore, I find that the present writ petition is totally misconceived and thus, it deserves to be dismissed.

9. Accordingly, the writ petition is dismissed, however by granting four weeks time to the petitioner to vacate and hand over the vacant possession to the third respondent. No costs. The connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mk/vri

To

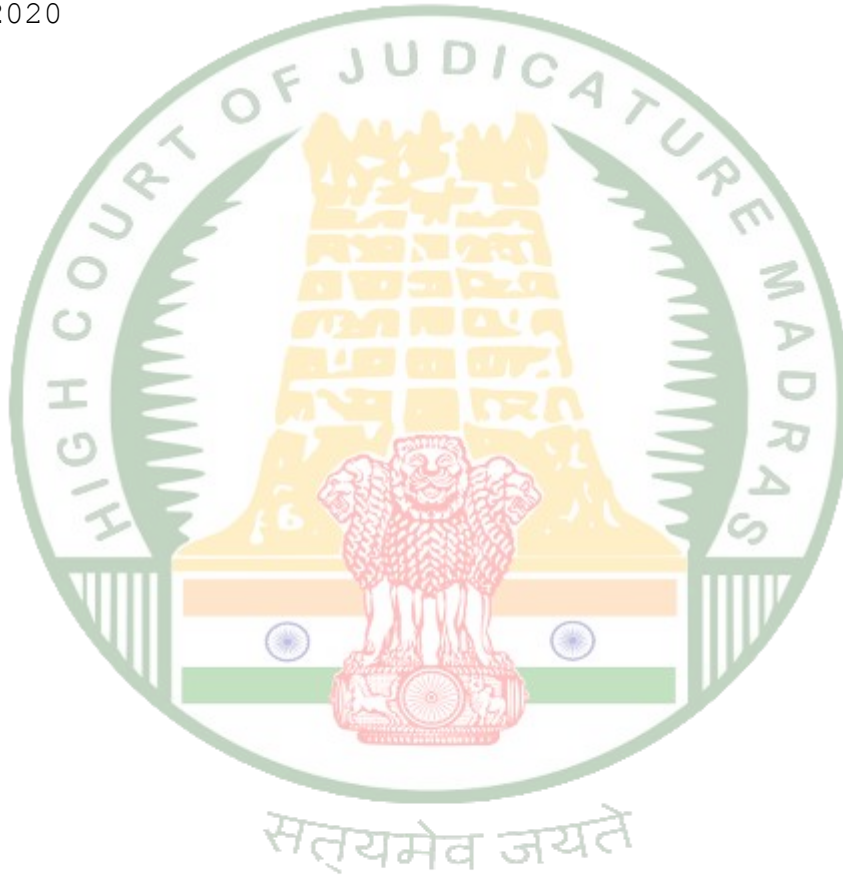
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+1cc to the Government Pleader, S.R.No.25187

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RSV (CO)
CS/29/07/2020



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