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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2021

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

WRIT PETITION NO.857 OF 2021

B.Bhuvaneswari

... Petitioner

-Vs-

1. Sirkazhi Municipality,
rep. by Commissioner,
Kamarajar Road,
Sirkazhi.
2. The Tahsildar,
Taluk Office,
Sirkazhi.
3. Revenue Divisional Officer,
Mayiladuthurai.
4. District Collector,
Mayiladuthurai.
5. Assistant Executive Engineer,
Construction and Maintenance Division,
Public Works Department,
Mayiladuthurai.

6. Mrs.Rukmani

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus, directing the 1st respondent herein to initiate appropriate action as contemplated under Section 218(3) of the District Municipalities Act, 1920 and vacate the 6th respondent from the building in question namely shed bearing Door No.1, Thadalan East Madavilagam Street, Sirkazhi Town, Mayiladuthurai District.

For Petitioner : Mr.S. Sadasharam

For Respondents : Mr. P. Srinivas for R1
Mr.M.D. Illayaraja, Govt. Advocate
for R2 to R5
No appearance-R6



O R D E R

Heard the learned counsel for the petitioner and the learned counsel for the first respondent and the learned Government Advocate appearing for the respondents 2 to 5. Despite the service of notice, there is no representation for the 6th respondent.

2. According to the petitioner, her husband by name, V.Balasubramanian, owner of the commercial premises bearing Door Nos.1, 1A, 1B and 1C, Thadalan East Madavilagam Street, Sirkazhi, accommodated the husband of the 6th respondent, who was employed in his Rice Mill. After his demise, since the building was in a dilapidated condition, the petitioner's husband requested the sixth respondent to vacate and hand over the vacant possession, but she refused to do so. Hence, the petitioner's husband and after his death, the petitioner made representations along with a report of the fifth respondent dated 19.12.2018 relating to the property in question, to the respondents 1 and 2, to take action under section 218 of the District Municipalities Act. Since no action has been taken to evict the occupant of the property in question and to demolish the same, the petitioner has filed the present Writ Petition praying for a Mandamus to the 1st respondent in this regard.

3. On 11.02.2021, this Court appointed an Advocate Commissioner to inspect the disputed premises and file a report about the present position of the same.

4. Accordingly, the Advocate Commissioner inspected the disputed premises with the help of a qualified Engineer and filed her report along with photographs on 05.03.2021, wherein, it is stated as follows;

"5. Hence, the property bearing Door No.1, Thadalan East Madavilagam Street, Sirkazhi Town, Mayiladuthurai District seems to be standing in support of two wooden logs. Also the adjacent properties bearing Door No.1A, 1B and 1C seems to be in a better condition except for the roofs and windows. At the time of inspection, I observed that property bearing Door No.1 appears to be in a bad state than the other adjacent properties bearing Door Nos.1A, 1B and 1C. I have also taken few photographs of the premises bearing Door No.1, 1A, 1B and 1C Thadalan East Madavilagam Street, Sirkazhi Town, Mayiladuthurai District and those photographs are filed herewith as Annexure-A3 to this report."



5. Today, when the matter was taken up for hearing, both the learned counsel for the petitioner and the learned counsel for the respondents 1 to 5 agreed to proceed with the matter in accordance with the Advocate Commissioner's report. The said submission is recorded.

6. In the light of the report filed by the learned Advocate Commissioner and also, as agreed by both the parties, this Court directs the 1st respondent to take appropriate action as contemplated under Section 218(3) of the District Municipalities Act, 1920. Such an exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

7. This Court, in appreciation of the service rendered by the learned Advocate Commissioner, directs the petitioner to pay a sum of Rs.10,000/- towards additional remuneration, to her, within a period of two weeks from the date of receipt of a copy of this order.

8. With the above directions, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

msr

To

1. The Commissioner,
Sirkazhi Municipality,
Kamarajar Road,
Sirkazhi.
2. The Tahsildar,
Taluk Office,
Sirkazhi.
3. The Revenue Divisional Officer,
Mayiladuthurai.
4. The District Collector,
Mayiladuthurai.



5. The Assistant Executive Engineer,
Construction and Maintenance Division,
Public Works Department,
Mayiladuthurai.

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+1cc to the Government Pleader, S.R.No.23085

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LN(CO)
CS(19/07/2021)