



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 01.11.2021
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. No. 3330 of 2021
and WMP. No. 3799 of 2021

MAJLIS - E- MUNTHAZIMA
MASJID - E- NAULBAND,
Naulband Mosque,
Represented by its Hereditary Muthavalli,
K.Mohammed Rafik @ Babu Sait,
No.72, Ellis Road,
Chennai - 600 002.

.. Petitioner

Versus

1. The Commissioner,
Greater Corporation of Chennai,
Chennai.
2. The Deputy Commissioner (Works)
Corporation of Chennai,
Rippon Building,
Chennai - 600 003.
3. The Regional Deputy Commissioner (North),
Greater Corporation of Chennai,
Royapuram, Chennai.
4. The Zonal Officer, Zone-V,
Greater Corporation of Chennai,
Basin Bridge, Chennai.
5. The Executive Engineer, Zone - V,
Greater Corporation of Chennai,
No.61, Basin Bridge, Chennai.
6. The Assistant Engineer,
Ward No.59, Zone - V,
Greater Corporation of Chennai,
Chennai.
7. The Chairman,
Tamil Nadu Wakf Board,
No.1, Jaffer Syrang Road,
Vallal Seethakathi Nagar,
Chennai - 600 001.
8. The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffer Syrang Road,
Vallal Seethakathi Nagar,
Chennai - 600 001.

9. Syed Aleem



10. Mumtaz

11. Abdullah

.. Respondents

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Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the Wakf Authorities - respondents 7 and 8 to issue No Objection Certificate and give consent to remove/demolish the dangerous structure situated Old D.No.25(present D.No.26), Tippu Sahib Street, Mount Road, Chennai - 600 002, to enable the petitioner to comply with the notice issued the third respondent in his proceedings No.Z.O.V.X.No./11106/2020 dated 25.01.2021 which was issued under Section 258 of The Chennai City Municipal Corporation Act, 1919 within a time stipulated by this Court.

For Petitioner : Mr.A.Ilaya Perumal
For R1 to R6 : Mr.P.Manoj Kumar
For R8 : Mr.C.Shankar
For R9 : Mr.S.S.Rajesh

O R D E R

Heard all the parties and perused the materials placed before this court.

2. The present writ petition has been filed for issuance of Writ of Mandamus seeking to direct the Wakf Authorities - respondents 7 and 8 to issue No Objection Certificate and give consent to remove/demolish the dangerous structure situated at Old D.No.25(present D.No.26), Tippu Sahib Street, Mount Road, Chennai - 600 002, to enable them to comply with the notice issued by the third respondent in his proceedings No.Z.O.V.X.No./ 11106/2020 dated 25.01.2021 under Section 258 of The Chennai City Municipal Corporation Act, 1919.

3. The petitioner claims that it is a notified Wakf under the Wakf Act and the Wakf is maintaining five properties. Amongst the five properties, the house property at No.25, Tippu Sahib Street, Mount Road, Chennai-2, is more than 100 years old consisting of commercial and residential portion, which are let out to tenants. Further, owing to old age, the said property is in a dilapidated condition and there is every likelihood of the building being collapsed at any time. Some of the tenants vacated the building apprehending any untoward incident. However, the respondents 9 to 11 failed to do so. The petitioner also issued a notice on 04.02.2020 to the respondents 9 to 11 to vacate the premises, but they refused to budge. Further, the petitioner sent representations dated 02.11.2020 and 22.12.2020 to the fifth respondent and fourth respondent respectively and another representation on 30.12.2020 to the first respondent for issuance of demolition order. Pursuant to the same, after inspection, the third



respondent vide proceedings No. Z.O.V.X.No.11106/2020 dated 25.01.2021 issued a notice stating that the building is in dilapidated condition and is endangering the occupier and passerby and therefore, directed the petitioner to demolish it within a period of 15 days. In the meanwhile, the petitioner also sent a notice on 02.01.2021 followed by a reminder representation dated 06.01.2021 to the eighth respondent for issuance of letter of consent and transfer of patta to Naulband Mosque Trust and the same are kept pending on the file of the eighth respondent without any consideration, till date. Feeling aggrieved, the petitioner has come up with this writ petition for the aforesaid relief.

4. Upon notice, the third respondent has filed a detailed counter affidavit dated 05.07.2021, wherein, it is inter alia stated that in order to safeguard the building and to avoid any untoward incident due to the subject building, a notice under section 258 of the Chennai City Municipal Corporation Act IV of 1919 has been issued to the petitioner viz., Majlis-E-Munthazima Masjid-E-Naulband on 02.02.2021; the tenants refused to receive the notice and hence, the same is pasted in the wall of the building on 03.02.2021 to fence off, take down, secure, repair or demolish the aforesaid structure to prevent any danger.

5. On 29.07.2021, the learned counsel for the ninth respondent filed an affidavit of the ninth respondent stating that he is ready and willing to hand over the possession of the premises, if he is inducted as a tenant after the reconstruction of the said property.

6. On the other hand, the tenth respondent in her counter affidavit stated that she has deposited an advance amount of Rs.3,00,000/- with the Waqf committee members and that, if the petitioner wants to demolish the waqf property or reconstruct the waqf property, they should get prior and proper permission from the Tamil Nadu Waqf Board as stated in the Waqf Act, 1995. However, during the course of hearing, the learned counsel for the tenth respondent fairly submitted that in the event of demolition and reconstruction, the tenth respondent shall be given priority in letting out the property.

7. Having regard to the stand so taken by the private respondents, the learned counsel appearing for the petitioner, on instructions, submitted that without prejudice to their right to contest the writ petition, the petitioner is given an undertaking that if the newly constructed building is going to rent out for third parties, they will give priority to the private respondents 9 to 11 with accommodation each one portion for them whatever the extent now they possessed in the premises situated at Old D.No.25 (Present D.No.26) Tippu Sahib Street, Mount Road, Chennai - 600 002 by following the provisions of Wakf Act, 2013 and the Wakf Properties Lease Rules, 2014. An affidavit of undertaking dated 01.11.2021 of the petitioner has also been filed to that effect.



8. In view of the aforesaid subsequent development, this court is of the opinion that no further orders need be passed in this writ petition, except recording the affidavit of undertaking given by the petitioner dated 01.11.2021. Accordingly, the same is recorded and this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

av/rsh
To

1. The Commissioner,
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No.1, Jaffer Syrang Road,
Vallal Seethakathi Nagar, Chennai - 600 001.
- +1 cc to Mr.A.Ilaya Perumal , Advocate Sr.NO. 56534

W.P.No.3330 of 2021