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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2021

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THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.12955 of 2021

H.Vijayakumar

..Petitioner

Vs

1. The Executive Officer,
Minjur Town Panchayat,
Minjur,
Thiruvallur District.

2. B. Hemanth
(Impleaded vide order of
this Court dated 02.07.2021)

..Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India for Writ of Mandamus, directing the respondent to consider the petitioner's representation dated 21.05.2021 and demolish the shop portion.

For Petitioner : Mr.A.P.Sathyamurthy

For Respondents: Mr.A.Selvendran, GA - R1
Mr.Perumbulavi Radhakrishnan-R2

O R D E R

The prayer sought for in the writ petition is to direct the respondent to consider the petitioner's representation dated 21.05.2021 and demolish the shop portion.

2. The learned counsel appearing for the petitioner has submitted that the petitioner is the owner of the property situated in Minjur-Thiruvettiyur High Road, comprised in Survey No.272/1, 272/2 measuring an extent of 6 cents having purchased the same from one Brijesh. At the time of purchase, there were four shops being occupied by various tenants. The learned



counsel appearing for the petitioner has further submitted that all the said shop portions were constructed in the year 1959 and they are nearly 70 years old and in depilated condition. The 1st respondent has also given tax exemption for the said shops based on the age of the building and its condition. The learned counsel appearing for the petitioner has further submitted that in order to protect the life of the tenants in the said shop portions, he made representation dated 21.05.201 to the 1st respondent, requesting to take action and demolish the building as per Section 237 of District Municipalities Act. Since no action has been taken by the 1st respondent, he preferred the present writ petition.

3. This Court by order dated 02.07.2021 impleaded the 2nd respondent herein as party in the writ petition. The learned counsel appearing for the 2nd respondent has filed counter affidavit. The learned Government Advocate appearing for the 1st respondent has also filed counter affidavit.

4. Heard the learned counsels appearing for the parties concerned and perused the records.

5. The learned Government Appearing for the 1st respondent would submit that the vendor's grand mother namely Sumathi had made request to the panchayat to demolish four commercial shops which are 60 years old situated in survey nos. 272/1, 272/2. On considering the application, the 1st respondent by proceedings dated 15.11.2019 granted permission to demolish the aforesaid four commercial shops and subsequent order was also passed cancelling the property tax for the said four shops. The petitioner's vendor could not evict the tenants in the said property, thereafter the petitioner has purchased the said property from the vendor. Therefore, it is for the petitioner to take steps to evict the tenants from the said property and demolish the building.

6. The learned counsel appearing for the 2nd respondent drew attention of this court that the 2nd respondent herein has filed a suit for Specific Performance against D.Brijesh in O.S.No. 250 of 2020 before the Principal District Court, Tiruvallur and he has also filed an application to implead the new purchaser of the said property/writ petitioner herein as defendant in the suit proceedings, the same is pending before the Civil Court.

7. Considering the submissions made by the learned Government Advocate that the 1st respondent had already granted permission to demolish the aforesaid four commercial shops and taking note of the fact that the suit proceedings are pending before the civil court as against the subject property, this Court, at this stage, cannot give directions to the 1st



respondent as sought for by the petitioner and the same is liable to be dismissed. It is for the petitioner to work out his remedy before the appropriate forum as against the tenants for eviction and demolition of the demised property.

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8. With the above observations, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

The Executive Officer,
Minjur Town Panchayat,
Minjur,
Thiruvallur District.

+1cc to Mr.A.Selvendran, Advocate, S.R.No.34601

+1cc to Mr.P.Paulselvam, Advocate, S.R.No.34242

W.P.No. 12955 of 2021

PMK (CO)

RGA(06/08/2021)