



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.01.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.4611, 4615 and 4621 of 2020

and

**W.M.P(MD)Nos.3967,12129,3969,
12060,3977 and 12059 of 2020**

WEB COPY

A.Ebinezer	... Petitioner in W.P(MD)No.4611 of 2020
S.Jambulingam	... Petitioner in W.P(MD)No.4615 of 2020
S.Murali Sundaram	... Petitioner in W.P(MD)No.4621 of 2020

Vs.

The Executive Engineer and
Administrative Officer,
Tiruchi Housing Unit,
Khajamalai,
Tiruchirappalli-620 023. ... Respondents in all three writ petitions

Common Prayer: Writ Petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records culminated in the impugned order in Letter No.R2/00196/2020, dated 14.02.2020 on the file of the respondent and quash the same as illegal, ultravires, without jurisdiction, not in accordance with law, void *ab-initio* and for the mandamus directing the respondent not to demolish the apartments in LIG B type bearing Door Nos.E4, B2 and H2, Varaganery colony, Trichy Housing Unit, Tanjore Road, Tiruchirappalli - 620 008.

For Petitioner	: Mr.Shangar Murali
For Respondent	: Mr.K.Chellapandian, Additional Advocate General, assisted by Mr.R.Ravichandran, Standing Counsel in all three writ petitions

COMMON ORDER

The petitioners are the occupants of the premises constructed by the respondent Housing Board in the capacity as tenants. What are under challenge in these writ petitions are the communications calling upon the petitioners to vacate and hand over the possession on the tenanted premises.

2.The learned Counsel appearing for the petitioners took me through some of the provisions of the Tamil Nadu State Housing Board Act, 1961 and contended that without issuance of notice, the impugned communications would not have been issued. The stand of the



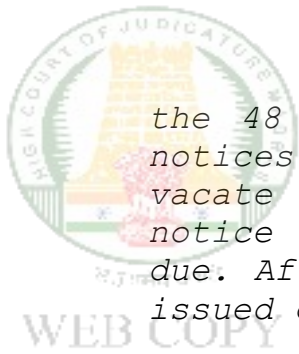
respondent is that the apartments were constructed more than 47 years ago and that they have become old and dilapidated and have become unfit for human habitation.

3.The learned Additional Advocate General appearing for the respondents would contend that the petitioners have been given 30 days time to vacate the premises. It is also submitted that the structural stability of the building was assessed by an Expert Committee comprising, not only the departmental Engineers, but also Professors from Anna University and IIT, Chennai and that they have given a report that the buildings require demolition.

4.Though I find considerable force in the contention of the petitioners' Counsel that the impugned communications are violative of principles of natural justice, I must also take note of the ground, on which, the communications are predicated. The categorical assertion of the respondent Board is that the buildings have become unfit for human habitation. The petitioners have not placed any material to show that this contention is incorrect. If the petitioners have placed any certificate of Structural Engineer claiming that the buildings are sound and do not call for demolition, then certainly I could have intervened and it would have become a matter for at least summary enquiry and therefore, I could have quashed the impugned communication on the ground of violation of principles of natural justice. But no such material has been placed before me. The counter affidavits were served on the petitioners, way back in October 2020. Paragraphs 5 and 6 of the counter affidavit read as follows:

"5. It is submitted that to assess the fitness of the following sites viz, a) Vageneri Housing Trichy, B)Thoppur Madurai Samuthyakudam, and in resoulution No.5.01, dated 24.07.2018 an expert committee was appointed with chairmanship of Chief Engineer and Superintending Engineer and other members from the professor of Anna University, and Principal advisor (Professor of IIT, Chennai) of CUBE, (Centre of Excellence on Urbanization Building and Environment) and Executive Engineer of the said division as members. The above committee had inspected the 48 Flats on 09.08.2019.

6. I submit that the said committee members examined the said building on 09.08.2019 and observed that structural components of all blocks have been in deteriorated condition and they are in a damaged state due to aggressive environment. Hence, the technical committee has laid a report and recommended to demolish all the blocks and recommended for construction of the new building. Further the expert committee opined that the existing buildings are highly uninhabitable and recommended to demolish and evict the people residing therein. Hence, we have decided to raze down



the 48 years old building. Pursuant to that the individual notices have been given to the persons in the houses to vacate the premises within 30 days on 14.02.2020. The said notice was sent through registered post with acknowledgment due. After lockdown due to COVID-19, a second notice was also issued on 01.06.2020 with registered post."

5. These averments have not been met by filing a rejoinder. Of course, mere filing of the rejoinder would not have been sufficient. The petitioners ought to have sustained their stand with reference to expert's opinion. Since there is no contrary opinion coming from the side of the petitioners, I have to necessarily sustain the stand of the respondent. The petitioners are tenants and they have been in occupation of the premises for more than 47 years. However, they cannot insist that they can continue to be there for ever. Of course, if the petitioners are sought to be vacated for the reasons set out in Section 84 of the Tamil Nadu State Housing Board Act, then the procedure contemplated under Section 84 of the said Act would become applicable, but the petitioners are sought to be vacated not on that ground, but for the reason that the apartments have become old and dilapidated and unfit for human habitation. Therefore, the contention based on Section 84 may not hold good.

6. In such view of the matter, these writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed. Taking note of the Covid-19 Pandemic situation, I grant three months time from the date of receipt of a copy of this order to the petitioners to vacate the premises.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

dsk

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To: -

The Executive Engineer and
Administrative Officer,
Tiruchi Housing Unit,
Khajamalai,
Tiruchirappalli.

+1 CC to Mr.SHANKAR MURALI, Advocate (SR-34[F] dated 05/01/2021)

+1 CC to Mr.R.RAVI CHANDRAN, Advocate (SR-371[F] dated 06/01/2021)

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