



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.10.2021

CORAM

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD).No.17734 of 2021

Issakki Ammal

... Petitioner

Vs.

1.The Commissioner,
Trichy Municipal Corporation,
Trichy.

2.The Assistant Commissioner,
Trichy Municipal Corporation,
Srirangam Division,
Trichy.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first and second respondents to take immediate action to demolish the petitioner house building which is in dilapidated condition bearing Door No.23 A situated at Devadanam Road, Trichy-8 within the time fixed by this Court on the basis of proceedings issued by the second respondent dated 11.01.2021.

For Petitioner : Mr.B.Jameel Arasu
For Respondents : Mr.R.Baskaran
Standing Counsel

ORDER

The petitioner seeks a direction to respondents 1 and 2 to take immediate action to demolish the building bearing Door No.23A at Devadanam Road, Trichy-8.

2.The petitioner asserts that she is the owner of the above mentioned property, and that she purchased the same from the previous owner, namely, Nagarajan, on 23.11.2012 by a registered sale deed bearing Document No.6953 of 2012. Even at the time of purchase, the petitioner states that the house was in a dilapidated condition. The petitioner claims that the vendor sold the property on condition that he would get the building demolished because it is in a dilapidated condition. The petitioner requested the second respondent to inspect the building and demolish the same. The present writ petition is filed on account of the fact that no action has been taken pursuant to the petitioner's request for demolition.

3.Mr.R.Baskaran, learned Standing Counsel, appears on behalf of both the respondents. He draws reference to the representation of the petitioner dated 26.08.2021 and points out that it is evident



therefrom that the petitioner is requesting for demolition with a view to evict the tenants or occupants of the relevant property.

4.Both from paragraph 5 of the affidavit in support of the writ petition and the above mentioned representation, it is evident that the petitioner is resorting to demolition instead of approaching the jurisdictional courts for eviction of the tenants. This constitutes an abuse of process. Therefore, discretionary jurisdiction cannot be exercised in favour of such person.

5.For reasons set out above, W.P.(MD).NO.17734 of 2021 is dismissed without any order as to costs. However, it is made clear that this will not preclude the respondents from initiating action for demolition, if it is deemed necessary. Any such action should, however, be taken in accordance with law after providing a reasonable opportunity to the tenants or occupants of the building.

Sd/-

Assistant Registrar (Per.Admn)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sn/sji

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

1.The Commissioner
Trichy Municipal Corporation,
Trichy.

2.The Assistant Commissioner,
Trichy Municipal Corporation,
Srirangam Division,
Trichy.

+1 CC to M/s.R.BASKARAN, Advocate (SR-30915[F] dated 01/10/2021)
W.P(MD).No.17734 of 2021
01.10.2021

(CO)
GC(25.10.2021) 2P 4C