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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 31.03.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.Nos.19246, 16858, 17298 & 20471 of 2020 &
WMP.Nos.23834, 23836, 23837, 20910, 20912, 20914,
21397, 21398, 21402, 21403, 25245 & 25249 of 2020
and 2220, 2223 & 2377 of 2021 and 1057 of 2022

1.M.Sheik Dawood

2.Ganesh Raja ... Petitioners in W.P.No.19246 of 2020

1.K.S.Abdul Razack

2.K.A.Mohammed Faizal

3.K.S.Syed Mohammed ... Petitioners in W.P.No.17298 of 2020

1.K.Salman

2.K.M.Kaleelur Rahman

3.K.Nazier ... Petitioners in W.P.No.16858 of 2020

Stephen ... Petitioner in W.P.No.20471 of 2020

Vs

1.The Commissioner,
Coimbatore Municipal Corporation,
Coimbatore, Coimbatore District.

2.The Assistant Commissioner,
Central Zone, Coimbatore Municipal Corporation,
Coimbatore, Coimbatore District.



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3.The Procurator,
The Coimbatore Diocese Society,
(The Roman Catholic Mission),
Bishop's House, P.B.No.6,
Door No.1276, Big Bazaar Street,
Coimbatore - 641 001.

... Respondents in W.P.Nos.19246, 16858 &
20471 of 2020

1.The Commissioner,
Corporation of Coimbatore ,
Coimbatore.

2.The Procurator,
The Coimbatore Diocese Society,
(The Roman Catholic Mission),
Bishop's House, P.B.No.6,
Door No.1276, Big Bazaar Street,
Coimbatore - 641 001.

... Respondents in W.P.No.17298 of 2020

PRAYER in W.P.No.19246 of 2020: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.No.7687/2018/MH5 dated 05/11/2020 (signed on 09/11/2020) and quash the same.

PRAYER in W.P.No.17298 of 2020: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned notice issued by the 1st respondent in Na.Ka.No.7687/ 2018 / MH5 dated 5.11.2020 quash the same in so far as the petitioners are concerned and consequently forbear the respondents from interfering with the business activity of the petitioners in their respective shop No.9 in No.1278, Shop No.10 in No.1277, Shop No.1 in No.1286, at the premises of the 2nd respondent by considering the representations dated 11.11.2020.

PRAYER in W.P.No.16858 of 2020: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings



Na.Ka.No. 7687 / 2018 / MH5 dated 05.11.2020 (signed on 09.11.2020) and quash the same.

PRAYER in W.P.No.20471 of 2020: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.No.7687/2018/MH5, dated 21.11.2020 and quash the same.

(IN W.P.NOS.19246, 16858 & 20471 of 2020)

For Petitioners:Mr.C.Prakasam

For Respondents:Mr.S.Saravanan - R1 & R2

Dr.Father Xavier Arulraj, Senior Counsel
for Father Xavier Associates - R3

(IN W.P.NO.17298 of 2020)

For Petitioners : Mr.R.Prabakar

For Respondents : Mr.S.Saravanan - R1

Dr.Father Xavier Arulraj,
Senior Counsel
for Father Xavier Associates - R2

O R D E R

These Writ Petitions have been filed by the occupants of portions in a property bearing Nos.1266, 1288, 1278, 1277, 1286, 1276, 1271, 1283, 1273, 1276 and 1269 in Big Bazaar Street, Coimbatore - 641 001 (premises/premises in question).

2. In common, the Writ Petitioners have challenged notices issued by the first respondent, i.e., the Commissioner, Corporation of Coimbatore which they say is at the instance of the Coimbatore Diocese Society (The Roman Catholic Mission) (in short 'Diocese Society').

3. The petitioners are all tenants of the Diocese Society and are carrying on business in various portions in the shopping complex. According to them, there were measures to evict them from occupation and as the Diocese Society has been unable to



succeed therein, they have prevailed upon the Corporation to issue the impugned notices on the misconceived and erroneous ground that the building is itself unstable, dilapidated and structurally unfit.

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4. It is hence that the impugned notices dated 05.11.2020 and 21.11.2020 have come to be issued by R1 to the effect that the building in question is proposed to be demolished on 28.10.2020 for the reason that it is unfit for occupation. The notices are addressed to nine of the occupants calling upon them to vacate the premises immediately.

5. Learned Senior Counsel for learned counsel for the Diocese Society would submit that out of a total of 40 shops, 23 portions have been vacated and only 17 remain occupied as on date. The impugned notices have been issued only to 10 noticees including one as against which an endorsement has been made stating 'closed'. Thus, it is unclear as to whether only the 9 noticees continue in occupation of the premises or whether there are other occupants as well to whom such notices have not been issued. No clarity is forthcoming on this point.

6. When the matter had come up for admission, the petitioners were granted interim protection by staying the impugned notices. Today, after 1 ½ years from the issuance of impugned notices, this Court has to take note of the balance of convenience in the matter. If the notices issued by the Corporation are genuine and well-founded and after a proper inspection and assessment of the building, then it is certainly not in public interest to allow the building to stand.

7. Then again, the same cause of action as pursued in these writ petitions has been raised before the Civil Courts as well in Suits filed by the Diocese seeking eviction of the tenants. These Civil Suits are pending before various Courts as follows:

S.No.	Suit No.	Name of the defendants	Court
1	406 of 2018	Sheik Dawood	V ADM
2	407 of 2018	Stephen	PDM
3	699 of 2019	Muralidharan Babu	V ADM
4	412 of 2018	Ramasamy	V ADM
5	406 of 2018	Mohammed Ismail	V ADM
6	902 of 2018	P.Hariharan	III ADM
7	913 of 2018	P.P.Rajendran	II ADM
8	915 of 2018	Ganesh Raj	IV ADM



S.No.	Suit No.	Name of the defendants	Court
9	1063 of 2020	Jayanthi and 11 others	II ASJ

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8. The third petitioner in W.P.No.17298 of 2020 has, in fact, obtained a judgment in his favour in O.S.No.910 of 2018 on 02.03.2020, as against which the Diocese is in appeal in A.S.No.51 of 2021, pending before 4th Additional Sessions Judge, Coimbatore. The petitioners have also made a representation before the Principal Sessions Judge on 10.03.2020 seeking consolidation of all the Civil Suits pending before various Courts and expeditious hearing and disposal of the matters, seeing as one of the buildings abutting the shopping complex is a school and thus the interests of children are also involved apart from the visitors to the complex.

9. Thus, and in my anxiety to achieve a balance between the interests of the parties, a direction is issued to the Principal Sessions Judge, Coimbatore, that shall be communicated by the office of R1 through Mr.S.Saravanan, learned counsel for the Corporation of Coimbatore, to consolidate all the matters detailed above, assign the matters for hearing before a Judge for disposal together, such that they are heard and disposed within a period of three (3) months from today.

10. The interim protection already granted will continue for a period of 90 days from today or till the disposal of the Suits, whichever is earlier.

11. Learned counsel for the Diocese Society also makes reference to a Commissioner's report which is detailed in regard to his assessment of the shops. His concluding opinion is to the effect that the structure in question is unfit. While deciding the case, the report of the Commissioner shall be taken into account by the learned Judge and appropriate orders passed.

12. With the aforesaid directions, these Writ Petitions stand disposed. No costs. Connected Miscellaneous Petitions are closed.

SD/-

ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR



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- 1.The Commissioner,
Coimbatore Municipal Corporation,
Coimbatore, Coimbatore District.
- 2.The Assistant Commissioner,
Central Zone, Coimbatore Municipal Corporation,
Coimbatore, Coimbatore District.

+1cc to Mr.C.Prakasam, Advocate Sr.21976
+1cc to M/s.R.Prabakar, Advocate Sr.21951
+1cc to M/s.S.Saravanan, Advocate Sr.22030
+3ccs to M/s.Father Xavier Associates, Sr.22663

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rsi[co]
srg 25/04/2022