



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 01.09.2022
CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

W.P. (MD) No.14544 of 2022

G.Rajkumar

... Petitioner

Vs

- 1.The Commissioner,
Corporation of Madurai,
Madurai - 625 002.
- 2.The Commissioner of Police,
Madurai City.
- 3.The Inspector of Police,
Karimedu Police Station,
Madurai City.

4.P.Mala

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent to demolish the dilapidated building of the petitioner situated in T.S.No.1133/4, New T.S.No.126 and 295 at Door No.12/21 admeasuring 760 1/2 square feet at Azhakaradi 3rd Street, Madurai - 625 016 pursuant to the demolition notice issued by the first respondent dated 27.12.2021 at the cost of the petitioner by deploying sufficient police personnel from the respondents 2 and 3 and to forbear the forth respondent from preventing the demolition of the petitioner's building in any manner by considering the petitioner's representation, dated 17.06.2022 within a time limit that may be fixed by this Court.

For Petitioner	:	Mr.G.Kannan
For Respondents	:	Mr.K.K.Kannan
		Standing Counsel for R.1
		Mr.G.Sivaraja
		Government Advocate for R.2 & R.3
		Mr.K.Govindarajan
		for Mr.V.Balaji for R.4

ORDER

Heard the learned counsel on either side.



2. The petitioner as well as the fourth respondent had purchased adjacent properties. There is no dispute that the property was purchased by the fourth respondent. The petitioner is very old. The fourth respondent had filed O.S.No.181 of 2011 on the file of Principal District Munsif Court, Madurai Town seeking the relief of mandatory injunction and permanent injunction. The suit was decreed on 13.02.2019 in the following terms:

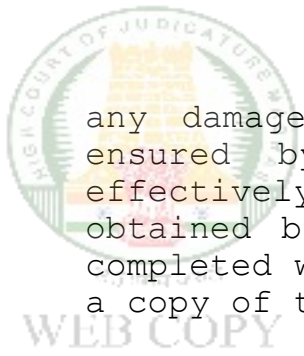
"1. that the suit be and the same is hereby decreed as prayed for.

2. the defendants are hereby restrained by way of mandatory injunction to remove all unauthorized construction in the western side pathway of the 2nd item of the suit property within a period of one month from the date of this order.

3. that the defendants, their men, agents, servants are hereby restrained by way of permanent injunction from in any way putting up further construction or demolition or alteration in the 1st item of the suit property.

4. that the defendants are hereby directed to pay a sum of Rs.156/- (Court Fee + Vakalath) to the plaintiff. (Plaintiff side cost list not filed)"

3. The writ petitioner had purchased his property subsequent to the passing of the decree on 04.02.2022. Now, the petitioner wants to demolish his property and with that request, he has moved the Commissioner of Madurai Corporation. The fourth respondent had filed E.P.No.12 of 2022 on the file of Additional District Munsif Court, Madurai Town for executing the decree obtained by him. Since the writ petitioner had stepped into the shoes of vendor, he obviously has to enter appearance in the said Execution Petition (E.P). I make it clear that the writ petitioner is entitled to demolish his property. But he has to do so without causing any damage to the property of the fourth respondent. The fourth respondent has already obtained an order of permanent injunction in his favour. Civil Engineering has advanced to such an extent that demolition of the petitioner's property is possible without causing any damage to the fourth respondent's house. This can be done under the supervision of the Executing Court. The petitioner is permitted to implead himself in the pending Execution Petition (E.P) filed by the fourth respondent. Impleading application shall be allowed. The Executing Court shall appoint an Advocate Commissioner, at the instance of the writ petitioner. The process of demolishing the property purchased by the petitioner shall be done without causing



any damage to the fourth respondent's property. This be ensured by the Executing Court. The petitioner will also effectively co-operate for complying with the mandatory injunction obtained by the fourth respondent. The entire exercise shall be completed within a period of four months from the date of receipt of a copy of this order.

4. This writ petition is disposed of on these terms. No costs.

Sd/-

Assistant Registrar (CS.II)

// True Copy //

/09/2022

Sub Assistant Registrar(CS)

To

1.The First Additional District Munsif Court,
Madurai Town.

2.The Commissioner,
Corporation of Madurai,
Madurai - 625 002.

3.The Commissioner of Police,
Madurai City.

4.The Inspector of Police,
Karimedu Police Station,
Madurai City.

+1 CC to M/s.G.KANNAN, Advocate (SR-42275[F] dated 01/09/2022)

+1 CC to M/s.M.KARAL MARX, Advocate (SR-42654[F] dated 02/09/2022)

+1 CC to M/s.K.K.KANNAN, Advocate (SR-42811[F] dated 02/09/2022)

+1 CC to M/s.SPL.GP (SR-43035[F] dated 05/09/2022)

W.P. (MD)No.14544 of 2022

Date:01.09.2022

mga

SA(24.09.2022) 3P 9C

<https://www.mhc.tn.gov.in/judis>