



W.P.No.4065 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.4065 of 2023
and WMP No.4112 of 2023

P.Vageesan

... Petitioner

.Vs.

The Commissioner
Chidambaram Municipality
Chidambaram
Cuddalore District.

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondent in his proceeding Na. Ka. No.3037 / 2022 / F1 dated 01.02.2023 and quash the same.

For Petitioner Mr.K.Raja

For Respondent Mr.P.Srinivas
Standing Counsel

ORDER

The petitioner has challenged the impugned proceedings of the respondent Municipality dated 01.02.2023, wherein the petitioner has been directed to vacate and hand over the subject property to enable the respondent Municipality to demolish the building which is claimed to be in a dilapidated condition.



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2.The petitioner is the tenant in the subject property under one Rathnasabapathy.

The petitioner is utilising the property for non-residential purposes. The respondent issued a notice to the petitioner dated 01.11.2022 and directed the petitioner to get the structural soundness certificate for the building from the competent engineer. Accordingly, the petitioner obtained a certificate and handed it over to the respondent. Pursuant to the same, the building was also inspected by the engineer belonging to the respondent Municipality. It seems that the engineer of the Municipality had given a certificate which runs contrary to the certificate that was handed over by the petitioner to the respondent and based on the same, through the impugned proceedings, a decision has been taken to vacate and demolish the building and the petitioner was asked to vacate and hand over the property. The impugned proceedings of the respondent has been put to challenge mainly on the ground that neither the petitioner nor the owner of the property were put on notice before a decision was taken by the respondent and that apart, the report that is said to have been submitted by the engineer belonging to the Municipality was also not furnished to the petitioner.

3.Heard Mr.K.Raja, learned counsel for the petitioner and Mr.P.Srinivas, learned Standing Counsel for the respondent.

4.In the considered view of this Court, the respondent had directed the petitioner to get a structural soundness certificate and the petitioner accordingly engaged an engineer and a certificate was also given. Thereafter, inspection was done by the officers belonging to the respondent Municipality and it seems that the engineer belonging to the respondent



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Municipality has given a certificate to the effect that the building lacks structural soundness.

On receipt of this certificate/report, respondent ought to have issued notice to the petitioner and his owner by furnishing a copy of the report of the engineer belonging to the Municipality. That would have enabled the petitioner and his owner to give their explanation. Based on the same, the respondent could have taken a considered decision. Unfortunately, this minimum procedure has not been followed.

5. When the decision taken by an authority has civil consequences to it, it is now too well settled that an opportunity must be given to the aggrieved person failing which, the decision will suffer from illegality on the ground of violation of principles of natural justice. The impugned proceedings of the respondent dated 01.02.2023 also suffers from such an illegality.

6. In the light of the above discussion, the impugned proceedings of the respondent in Na.Ka.No.3037/2022/F1, dated 01.02.2023, is hereby set aside. The respondent is directed to issue a fresh notice to the petitioner and his owner along with the structural soundness certificate and report that was relied upon by the respondent to arrive at a conclusion. On receipt of the same, the petitioner and the owner of the property are entitled to give their explanation and based on the same, it is left open to the respondent to take a decision in accordance with law.



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N.ANAND VENKATESH, J.
KP

7.This writ petition stands allowed in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

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Internet : Yes/No
Index : Yes/No
Neutral Citation :Yes/No

To

The Commissioner
Chidambaram Municipality
Chidambaram
Cuddalore District.

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