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W.P.No.19925 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.19925 of 2016

C.Sheela

... Petitioner

Vs.

- 1.The Commissioner,
Corporation of Chennai,
Ripon Building,
Chennai – 600 003.
- 2.The Deputy Commissioner (Works)
Corporation of Chennai,
Ripon Building, Chennai – 600 003.
- 3.The Assistant Commissioner,
Corporation of Chennai,
Zone-IV, Ward No.54,
Ayanavaram, Chennai – 23.
- 4.The Assistant Engineer,
Corporation of Chennai,
Zone-IV, Ward No.54,
Ayanavaram, Chennai – 23.
- 5.The Inspector of Police,
K-1, Sembium Police Station,
Chennai.
- 6.B.Gopalakrishnamoorthy
- 7.B.Parthaban
- 8.S.A.Natan



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9.Mohammed Safi
10.Babu
11.Palani
12.Jayakumar
13.Raja

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent to take action to remove the old structure situated at Door No.36/81, Market Street, Veenus Market, Chennai – 600 011 by invoking the provision of Section 258 of the Chennai City Municipal Corporation Act, 1919 by considering the petitioner's representation dated 10.05.2016 within a time stipulated by this Court.

For Petitioner : Mr.T.Narendra Kumar

For Respondents : Mrs.P.T.Ramadevi, for RR1 to 4
Senior Counsel
Mrs.R.Anitha, for R5
Special Government Pleader
No Appearance for RR6 to 13

ORDER

The Writ Petition has been filed directing the first respondent to take action to remove the old structure situated at Door No.36/81, Market Street, Veenus Market, Chennai – 600 011 by invoking the provision of Section 258 of the Chennai City Municipal Corporation Act, 1919.



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2. The case of the writ petitioner is that the building is in dilapidated condition to endanger the safety of others. Therefore, the writ petition has been filed seeking direction for demolishing the building by invoking the provision under Section 258 of the Chennai City Municipal Corporation Act, 1919.

3. Learned counsel appearing for the respondents 1 to 4 submitted that the building is not in a dangerous condition. The counter has been filed by the third respondent and the same has been adopted by the respondents 1, 2 & 4. According to them, the building is not in dangerous condition. The writ petition has been filed in order to evict the tenant, who are residing in the premises. The building is not required for immediate demolition. The Corporation officials has inspected the said building on 15.11.2016 and found that the building structure is not in dangerous/dilapidated condition, as stated by the petitioner.

4. Learned counsel appearing for the fourth respondent would submit that the petitioner has no right to file a writ petition, since she is not an owner of the property. The sale executed in favour of the petitioner's husband was already challenged before the Civil Court in O.S.No.10771 of 2010, which was decreed. The sale in favour of the petitioner was already set aside and an appeal filed in



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A.S.No.848 of 2014 was also dismissed long back and submits that the petitioner is not an owner of the property. In para 3 of the petitioner's affidavit, it is clearly mentioned that the sale in favour of the petitioner's husband has been set aside by the civil Court.

5. In such view of the matter, the petitioner, who is not being the owner, cannot maintain this writ petition. That apart, the Corporation has also filed a counter to that effect, stating that the building is not in a dangerous condition and hence, it is not required for immediate demolition. Accordingly, the Writ Petition is dismissed. However, there shall be no order as to costs.

31.01.2023

Index :Yes/No

Speaking Order / Non-Speaking Order

AT



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N.SATHISH KUMAR, J.

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