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W.P.No.16229 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.16229 of 2023

P.Sreedharan

...Petitioner

Vs.

1.The Regional Deputy Commissioner (North)
Zone V, Greater Chennai Corporation
Royapuram, Chennai

2.The Executive Officer
A/m Adipadai Prasanna Vinayagar Thirukoil
369, Mint Street, Chennai 600 079.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent relating to the impugned notice dated 17.04.2023 in Z.O.C. No.E3/5288/2023 served on the petitioner on 12.05.2023 and quash the same and direct the first respondent not to interfere with the peaceful possession and enjoyment of the petitioner schedule property by the petitioner as a lessee under the second respondent herein.



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For Petitioner : Mr.K.N.Nataraja

For Respondents : Mr.D.Br.Prabhu for R1
Standing Counsel (GCC)

: Mr.K.Karthikeyan for R2
Government Advocate (HR & CE)

ORDER

The Writ Petition is filed challenging the notice issued by the first respondent dated 12.05.2023, directing the petitioner to demolish the building at Door No.369, Mint Street, Sowcarpet, Chennai 600 079, on the ground that the building is in dilapidated condition.

2. The learned counsel for the petitioner assailed the impugned order mainly on the ground that the respondents passed the impugned order for demolition of the building without issuing notice to the petitioner and without hearing his objections. It is also stated by the learned counsel for the petitioner that, in the impugned order, the first respondent failed to mention the specific date of inspection and structural stability of the building and therefore, the opinion formed by the first respondent that the building required immediate demolition, is without any acceptable material.



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3. The impugned notice does not say on what basis, the first respondent formed opinion regarding the structural stability of the building. In response to the Writ Petition, the first respondent filed a Status Report dated 03.08.2023, wherein it is mentioned that the building is 60 years old and at the time of inspection, it was found in ruinous condition. However, there is nothing in the Status Report that would suggest that the opinion of the Structural Engineer was obtained before taking a decision to direct the petitioner to demolish the building.

4. The learned Government Advocate appearing for second respondent temple, submitted that the petitioner is an encroacher and proceedings are initiated against the petitioner under Section 78 of the Hindu Religious & Charitable Endowment Act, for his eviction. The second respondent also in his counter affidavit stated that the building is in dilapidated condition causing danger to the devotees visiting the temple.

5. Heard the arguments of learned counsel for petitioner, Mr.D.Br.Prabhu, learned Standing Counsel (GCC) appearing for the first



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respondent and Mr.K.Karthikeyan, learned Government Advocate (HR & CE) appearing for the second respondent.

6. A reading of the impugned notice issued by the first respondent and status report filed by Executive Engineer, Zone V, Greater Chennai Corporation dated 03.08.2023 would suggest that there is nothing available on the record to say that the first respondent came to the conclusion regarding the structural stability of the building based on an opinion obtained from an Expert namely, structural Engineer.

7. It is also seen that the petitioner was not given opportunity to put forth by his case before passing impugned order, which is adverse to his interest. In such circumstances, the impugned notice issued by first respondent is set aside and the petitioner is directed to submit a Structural Stability Certificate from qualified Engineer in respect of the building in his occupation before first respondent, within a period of three weeks from the date of receipt of copy of this order.



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8. Thereafter, the first respondent shall conduct inspection after issuing notice to the petitioner and the second respondent and take a final decision in accordance with law, within a period of six weeks thereafter. It is open to the second respondent to file documents regarding the condition of the building before first respondent.

9. With the above directions, this Writ Petition is disposed of. No costs.

29.08.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
dna

To

- 1.The Regional Deputy Commissioner (North)
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Royapuram, Chennai
- 2.The Executive Officer
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S.SOUNTHAR, J.
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