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Writ Petition No.16844 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.16844 of 2023

R.Kothandaraman
S/o.T.P.Rathinam

...Petitioner

Vs

The Commissioner,
Ambur Municipality,
Municipal Office,
Jinna Road,
Ambur - 635 802.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondent to consider the representation dated 25.01.2023 in accordance with mandatory provisions of Section 218 of the Tamil Nadu District Municipalities Act, 1920, within the time to be fixed by this Court.

For Petitioner : Mr.M.Venkatakrishnan

For Respondent : Mr.P.Srinivas
Standing Counsel



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ORDER

This writ petition has been filed for issuance of a writ of mandamus directing the respondent Municipality to consider the representation made by the petitioner on 25.01.2023 and to take action in line with Section 218 of the Tamil Nadu District Municipalities Act, 1920 [for brevity 'the Act'].

2. Heard Mr.M.Venkatakrishnan, learned counsel for petitioner and Mr.P.Srinivas, learned Standing Counsel appearing for respondent.

3. The petitioner is the co-owner of the subject property. According to the petitioner, acquisition proceedings were initiated for widening the Highway and in the said process, a portion of the existing building was demolished. In view of the same, the left out portion of the building has become unfit for human habitation and it poses a serious risk. The petitioner also took the opinion of the structural engineer, who confirmed the fact that the existing building must be demolished. The petitioner informed the same to all the co-owners in order to take a collective decision to pull down the entire dilapidated building. Except one of the co-owner, others agreed to demolish the building.



4. Since there was no unity among the co-owners, the petitioner made a representation to the respondent to initiate action u/s.218 of the Act. Since the representation made by the petitioner was not considered, the present writ petition has been filed before this Court seeking for appropriate directions.

5. Learned Standing Counsel appearing on behalf of the respondent Municipality submitted that in the absence of unity among the co-owners, respondent cannot demolish the building. Insofar as the request made by the petitioner to the respondent Municipality to initiate action under the Act, the respondent will assess the structural stability of the building by taking into account the structural stability certificate from their engineer. If it is ascertained that the existing building will cause danger to the general public, the respondent Municipality will initiate action by issuing notice to all the co-owners.

6. As rightly contended by the learned Standing Counsel appearing for the respondent, the building cannot be demolished unless all the co-owners reach an unanimous decision. However, the respondent Municipality



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has the duty to ascertain the structural stability of the building since it should not cause danger to fellow human beings. Hence, there shall be a direction to the respondent to make an inspection of the property and ascertain the structural stability of the building through an engineer. If the certificate points out to the fact that the building is in dilapidated condition and requires immediate removal, it is left open to the respondent to issue notice to the co-owners and proceed further in accordance with law. If the certificate issued by the engineer does not recommend for demolition of the building, the same shall be informed to the petitioner. In either case, the process shall be completed by the respondent within a period of six (6) weeks from the date of receipt of a copy of this order.

Accordingly, this writ petition is disposed of with the above direction.

No costs.

07.06.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
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N.ANAND VENKATESH, J

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