



W.P.No.24208 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2023

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.24208 of 2023
and
W.M.P.No.23664 of 2023

1.Y.Thamotharan

2.Y.Karunakaran

... Petitioners

VS.

1.The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore – 641 001.

2.The Member Secretary,
Coimbatore Local Planning Authority,
1st floor, Corporation Shopping complex,
Raju Naidu Street, Coimbatore – 641 012.

3.S.Vasudevan

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the 1st Respondent herein in notice dated 10.08.2023, Quash the same.

For Petitioners : Mr.S.V.Karthikeyan



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For R1 : Mr.K.M.D.Muhilan
Additional Government Pleader

For R2 : Mrs.S.Anitha
Special Government Pleader

For R3 : Mr.B.Neduncheziyan

ORDER

The writ petition is filed challenging the order passed by the 1st respondent under Section 136 of Tamil Nadu Urban Local Bodies Act, 1998 directing the petitioner to vacate the building situated at Door No.361, Ranga Gowdar Street, Ward No.81, Coimbatore City on the ground that the building is in dilapidated condition.

2. Mr.K.M.D.Muhilan, learned Additional Government Pleader takes notice for the 1st respondent, Mrs.S.Anitha, learned Special Government Pleader takes notice for the 2nd respondent and Mr.B.Neduncheziyan, learned counsel takes notice for the 3rd respondent.

3. The impugned order is challenged by the petitioner mainly on the ground that the 1st respondent failed to comply with the earlier directions issued by this Court in W.P.No.16697 of 2016 wherein the 1st respondent



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was directed to conduct a proper inspection after serving notice to the petitioner as well as the 3rd respondent herein. It is the specific case of the petitioner that the impugned order has been passed without issuing proper notice to the petitioner.

4. The learned Additional Government Pleader appearing for the 1st respondent submits that in view of the fact the petitioner states no notice was issued to him before passing the impugned order, the order impugned in this writ petition may be treated as a show cause notice and the petitioner may be directed to submit his objection within a stipulate period.

5. Earlier, when the similar order was passed by the 1st respondent under the Coimbatore City Municipal Corporation Act, the petitioner approached this Court in W.P.No.16697 of 2016 and the said writ petition was allowed by setting aside the earlier impugned order by directing the 1st respondent to issue notice to the petitioner regarding date of inspection and pass orders after giving sufficient opportunity to the petitioner to putforth his case.



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6. A reading of impugned order would suggest that there is no reference about issuance of notice to the petitioner at the time of inspection conducted by the 1st respondent. Therefore, the 1st respondent failed to comply with the directions issued by this Court in the earlier writ petition.

7. Accordingly, as submitted by the learned Additional Government Pleader appearing for the 1st respondent, the impugned order is set aside by directing the 1st respondent to treat the impugned order as the show cause notice to the petitioner. The petitioner is directed to submit his objection, if any to the 1st respondent within a period of two weeks from the date of receipt of copy of this order. On submission of the objection by the petitioner, if the 1st respondent decides to proceed further, it is for him to issue proper notice to the petitioner as well as 3rd respondent fixing date for inspection of the property and pass appropriate orders thereafter. No costs. Consequently, the connected miscellaneous petition is closed.

14.08.2023
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Index : Yes/No
Speaking order : Yes/No
Neutral Citation : Yes/No
dm



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To

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S.SOUNTHAR, J.

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