



W.P.(MD)No.6522 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MRS. JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.6522 of 2023

Ganshyam

: Petitioner

Vs.

1.The Commissioner,
Trichy City Corporation,
Bharathidasan Salai,
Cantonment,
Trichy-1,
Trichy District.

2.The Assistant Commissioner,
Srirangam Zone,
Trichy City Corporation,
Srirangam,
Trichy-6,
Trichy District.

3.A.Thirunavukkarasu,
4.A.Thaibunnisa Begam
5.B.Latha
6.S.Ramesh
7.S.Ravisankar

: Respondents



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PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus directing the respondents 1 and 2 herein to take appropriate steps to demolish the building which is situated at Trichy Town, Srirangam Zone, Ward No.13, T.S.Nos.176 to 185, door numbers 546 to 555, in the light of order made in W.P(MD)Nos.17863 to 17868 of 2017 on the file of this Court dated 20.09.2017 in the light of the petitioner's representation dated 23.05.2022 within a stipulated period as may be fixed by this Court.

For Petitioner : Mr.R.Sundar
For Respondent : Mr.R.Baskaran
Senior Counsel for
M/s R.B Law Associates (for R1 and R2)

ORDER

(Order of the Court was made by R.SUBRAMANIAN, J)

The petitioner, who is the owner of the premises, which is situated at Trichy Town, Srirangam Zone, Ward No.13, T.S.Nos.176 to 185, door numbers 546 to 555, has come forward with novel writ petition for the Mandamus to direct the Municipal Corporation to take action to demolish the building.



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2.The petitioner is the owner of the building and the notices dated 13.09.2017, have been issued by the Trichy Corporation under Section 296 (1 & 2) of the Coimbatore City Municipal Corporation, which is made applicable to Trichy City Municipal Corporation area, claiming that the building in question is unsafe for habitation and seeking demolition of the same.

3.The contention of the petitioner is that his tenants, at least 6 in number, had filed writ petitions in W.P(MD)Nos.17863 to 17868 of 2017 challenging the said notice. This Court by order dated 20.09.2017, has disposed of the said writ petitions with the following observations:-

“3.Considering the same, without going into the merits of the case, this Court permits the petitioners to give further reply, it so advised, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the respondents 1 and 2 shall consider the same and pass orders on merits and in accordance with law. In the event of any adverse orders being passed against the petitioners, pursuant to the impugned provisional orders, the same shall not be given effect to within two weeks from the date of that order, so as to enable them to work out their remedy in the manner known to law.”



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4.It is now the turn of the petitioner to approach this Court seeking a Mandamus as above stated.

5.To exercise or not to exercise the power under Section 296 is within the domain of the Corporation. The petitioner cannot seek the aid of this provision to evict his tenants. We cannot issue such a Mandamus, which will be in conflict with the rights of the tenants, who are occupation of the building.

6.Hence, this writ petition fails and it is accordingly, dismissed. No costs.

[R.S.M., J.] & [L.V.G., J.]
27.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
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AND

L.VICTORIA GOWRI.,J

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