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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.06.2023

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THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P.(MD)No.9309 of 2023

and

W.M.P.(MD)No.8350 of 2023

1.M.Balasubramanian

2.M.Venkatachalam

... Petitioners

vs.

1.The Commissioner,
Dindigul Municipality, Dindigul District.

2.The Joint Commissioner,
HR & CE Department,
Dindigul District.

3.The Executive Officer,
Arulmigu Kalakathieeswarar Thirukovil,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the first respondent to accord permission/approval for demolition and reconstruction of the building comprised in D.No.163, Main Road, Dindigul on the basis of the petitioners' representation, dated 01.03.2023 in pursuance of the order, dated 26.12.2022 in the Se.Mu.Mu.No.9831/2022/A2.



For Petitioners :Mr.R.G.Shankar Ganesh
For R1 :Mr.M.Thirunavukarasu
For R2 and R3 :Mr.M.Senthil Ayyanar
Government Advocate

ORDER

Two petitioners have approached this Court, who are both brothers and carrying on business under the name and style of “Muthusamy and sons” at Door No.163, Main Road, Dindigul seeking a Mandamus to grant permission to demolish the building in which they are carrying on business as tenants and for reconstruction.

2.Heard Mr.R.G.Shankar Ganesh, learned Counsel for the petitioners, Mr.M.Thirunavukarasu, learned Counsel for the first respondent and Mr.M.Senthil Ayyanar, learned Government Advocate for the second and third respondents.

3.The petitioners are tenants under the third respondent, Arulmighu Kalakathieeswarar Thirukovil at Dindigul District. It had been stated in the affidavit that a suit was originally instituted in O.S.No.260 of 2007 before the District Munsif Court at Dindigul, consequent to a notice



issued by the first respondent, Dindigul Corporation demanding the tenants to vacate the property, since the building is in a dilapidated condition.

4.The suit had progressed and now is pending at S.A(MD)No.247 of 2014 before this Court. Pending the second appeal, the petitioners had given a representation on 01.03.2023. It must be mentioned that the appellant in the Second Appeal is the third respondent. The issue will have to be examined only by the first respondent/Dindigul Corporation.

5.The leaned Standing Counsel for the first respondent stated that fair opportunity would be granted to both the petitioners and the third respondent and thereafter, the nature of the building would be examined and a considered order would be passed in the representation of the petitioners.

6.Let due regard be given to the pendency of the Second Appeal and it would also be appropriate that if any decision is taken by the first respondent, before putting the same into effect, they also inform the



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Court where the Second Appeal is pending about the nature of the decision, since it would be with respect to demolition of building, which is the subject of the Second Appeal.

7. With the observations and placing a caveat that within a period of eight weeks from the date of receipt of a copy of this order, after following process, a decision must be taken by the first respondent on the representation given by the petitioners, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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

05.06.2023

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Dindigul District.

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Arulmigu Kalakathieeswarar Thirukovil,
Dindigul District.



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C.V.KARTHIKEYAN, J.

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Order made in
W.P.(MD)No.9309 of 2023

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