



W.A.(MD)Nos.703 and 721 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 07.09.2023

CORAM

**THE HON'BLE MR. JUSTICE M.S.RAMESH
AND
THE HON'BLE MR. JUSTICE M.NIRMAL KUMAR**

**W.A.(MD)Nos.703 and 721 of 2022
and
C.M.P.(MD)Nos.5900 and 6092 of 2022**

Nageswaran

.. Appellant in
W.A.(MD)No.703/2022

P.Manoharan

.. Appellant in
W.A.(MD)No.721/2022

Vs.

1.The Commissioner,
Madurai Corporation,
Madurai.

2.The Assistant Commissioner,
Zone No.3, Madurai Corporation,
Madurai.

3.Dr.S.Kasirajan

4.R.Kousalya

5.T.Nagajothi

6.Thiyagarajan Chettiar

.. Respondents in



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- 1.The Commissioner,
Madurai Corporation,
Madurai.
- 2.The Assistant Commissioner,
Zone No.3, Madurai Corporation,
Anna Maligai, Madurai.
- 3.The Executive Engineer,
TANGEDCO,
Teppakulam, Madurai.
- 4.The Assistant Engineer,
TANGEDCO,
Teppakulam, Madurai.
- 5.Kasirajan

COMMON PRAYER: Writ Appeals filed under Clause 15 of Letter Patent against the common order dated 20.06.2022 passed in W.P.(MD)Nos.10059 and 9745 of 2021.

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For Appellant : Mr.T.Lajapathy Roy,
Senior Counsel for
Mr.T.Palanisamy

For Respondents : M/s.S.Devasena,
Standing Counsel for R1 & R2
Mr.Issac Mohanlal,
Senior Counsel for
Mr.J.Anandkumar for R3

W.A.(MD)No.721 of 20220

For Appellant : Mr.M.Mahaboob Athiff

For Respondents : M/s.S.Devasena,
Standing Counsel for R1 & R2
Mr.S.Deenadhayalan,
Standing Counsel for R3
Mr.Issac Mohanlal,
Senior Counsel for R5

COMMON JUDGMENT

(Judgment of the Court was delivered by M.S.RAMESH,J.)

Both the appellants are tenants under the private respondents in these Writ Appeals. Through an order dated 26.05.2021, the Madurai Municipal Corporation had granted permission for demolition of the building in their occupation as tenants on the ground that the buildings are damaged due to rain and are likely to collapse, thereby causing danger to the general public. This order dated 26.05.2021 was under challenge in the writ petitions in



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W.P.(MD)Nos.9745 and 10059 of 2021, which came to be dismissed by the learned single Judge on 20.06.2022.

2. The learned Senior Counsel and the learned counsel appearing for the appellants, would submit that earlier the landlords had filed rent control proceedings seeking for eviction of the tenants on the ground of demolition and reconstruction, which was already dismissed and therefore, the Corporation has now been induced by the landlords to issue the notice of demolition and hence, the order is liable to be set aside since been motivated. Even otherwise, they submit that the buildings which they are occupying are in a good condition and that may not cause any danger to the public and therefore, the order of the learned Single Judge requires interference.

3. Per contra, the learned Standing Counsel for the Corporation submitted that under Section 327 of the Madurai Municipal Corporation Act, the Corporation would be well within its powers to issue demolition notice to the occupants of the buildings which are in a dilapidated condition



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and may cause danger to the safety of the general public and hence, there is no illegal in the same. He also submitted that a portion of the building had also collapsed in the year 2021, owing to its precarious condition and any further delay in demolishing the building will affect the safety of the general public. It is further submitted that pending the Writ Petition, interim directions were issued by the learned Single Judge, through which an Assistant Executive Engineer of the Madurai Corporation was directed to inspect the buildings in occupation and file a report. Based on the report, the learned Single Judge had dismissed the writ petitions and hence, there is no infirmity in the order.

4. The learned Single Judge had placed reliance on a decision of the Hon'ble Supreme Court in *Civil Appeal No.1833 of 2008, dated 14.09.2021* in the case of *Abdul Khuddus Vs. H.M.Chandiramani* and had come to the conclusion that both the Rent Control Legislations and Municipal Laws operate in separate fields and have different objects to be achieved. Reliance was also placed on a report of the Engineer of Madurai Corporation, who had inspected the buildings in question and filed a report



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stating that the building is in a dangerous condition, warranting demolition.

Incidentally, the Engineer was appointed based on the consent of Writ Petitioners. The main grounds that were raised in the Writ Petition, as well as before us, are that demolition orders of the Municipal Authority, without a show cause notice and without arriving at a specific finding that the building is in a dilapidated condition, cannot be sustained.

5. The purpose of issuance of a show cause notice is to extend an opportunity to the recipient to give his objections for the proposed action. The claim of the Municipal Authority is that the building is in a dilapidated condition for which demolition is imminent. This opportunity was extended to the appellants while the writ petitions were pending, more particularly with their consent to have that building inspected by an Engineer of the Corporation. When the report was filed, they were also given an opportunity to raise their objections, which they had failed to avail. Even assuming that the initial action could be improper, the principles of natural justice was secured when the Writ Petitions were pending and the inspection was done by the Engineer of the Corporation with the consent of the Writ Petitioners



and an opportunity to file the objections to the report was given.

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6. We have perused the report and are of the view that the condition of the building as stated by the Engineer could be accepted. The learned Senior Counsel for the landlords had produced photographs of the building, which are in the alleged occupation of the occurrence. From the photographs, we find that a portion of the building as already collapsed and the remaining portion is at the verge of collapse. The photographs also does not indicate that the appellants are continuing physical possession of the building.

7. On an overall view and by taking into account the report of the Engineer, who had filed his report before the learned Single Judge, when the writ petitions were pending, the order impugned in the writ petitions cannot be found fault with. Consequently, we do not find any grounds to interfere with the order of the learned Single Judge. Hence, both the Writ Appeals are dismissed.

8. At this juncture, both the learned counsel appearing for the



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appellants requested for some time to be granted to vacate the premises. In consideration of such a request, one month time from the receipt of the order, is hereby granted to vacate the premises, failing which, the Corporation would be at liberty to take coercive action for demolition. No costs. Consequently, connected miscellaneous petitions are closed.

(M.S.R.,J.) (M.N.K.,J.)
07.09.2023

NCC:Yes/No

Index:Yes/No

Speaking order/Non-speaking order

vsm/hvk

Note: Issue order copy today ie., 10.11.2023



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To

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M.S.RAMESH, J.
and
M.NIRMAL KUMAR, J.

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