



W.P(MD)No.24422 of 2023

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED : 09.10.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P(MD)No.24422 of 2023**

T.Marisamy

... Petitioner

Vs.

1.The District Collector cum  
District Magistrate,  
Madurai,  
Madurai District.

2.The Assistant Executive Engineer,  
Zonal.3,  
Madurai Corporation,  
Madurai.

3.M.Kalidasan

4.N.J.Mohamed Elias

5.The Commissioner,  
Madurai Corporation,  
Madurai.

***(R.5 is suo motu impleaded vide  
order of this Court dated 09.10.2023)***

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to dispose the petition filed by the petitioner under Section 133 (d) of Cr.P.C. dated 07.09.2023 within the time stipulated by this Court.

For Petitioner : Mr.Subash Babu  
Senior Counsel  
for M/s.Subash Law Office

For Respondents : Mr.M.Prakash  
Additional Government Pleader for R.1

Mr.A.Nagendran for R.2

Mr.Sivabalan  
Standing Counsel for R.5

### **ORDER**

Heard the learned Senior Counsel appearing for the writ petitioner, the learned Additional Government Pleader appearing for the first respondent, the learned counsel appearing for the second respondent and the learned Standing Counsel appearing for the fifth respondent. Considering the nature of relief to be granted, issuance of notice to the respondents 3 and 4 are dispensed with.



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2. The case of the petitioner is that the petition mentioned building belonging to him is more than 100 years old and it is in dilapidated condition and it is unfit for human habitation. He wants it to be pulled down. My attention is drawn to the communication given by the second respondent himself indicating that the building is in a dangerous condition. Since the local body is not taking any action, the petitioner wants this Court to direct the first respondent to take action under Section 133 of Cr.P.C.

3. When the field is occupied and specific power is conferred on the local body, the jurisdiction must be discharged by the local body and not by the District Magistrate. Section 136 of the Tamil Nadu Urban Local Bodies Act, 1998 is as follows:

***“136. Power to order removal of dangerous buildings, trees, etc.—(1) Where it appears to the Commissioner at any time that any building is in a ruinous condition or is in any way dangerous or unfit for human habitation or over crowding in a building, the Commissioner may by an***



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*order in writing, require the owner or the occupier of such building to vacate, demolish, remove such building within the time limit specified in the said order.*

*(2) Where it appears to the Commissioner at any time that any tree is in a ruinous condition or is in any way dangerous condition in any area of a municipality, he may by order in writing remove the tree forthwith.*

*(3) Where the owner or occupier of the building does not comply with the order issued under this section, the Commissioner shall take such step in relation to the building or tree as may be necessary to prevent any occurrence of danger therefrom.*

*(4) All expenses incurred by the Commissioner, in relation to any building or tree under this section shall be recoverable from the owner or the occupier thereof, as the case may be, as arrears of land revenue.”*

The fifth respondent is directed to issue notice to the respondents 3 and 4. A summary enquiry shall be held either by the Commissioner or any nominated officer. If the occupants dispute the allegations of the



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petitioner as to the condition of the building, then report will be obtained from any Government Engineer, preferably from the Public Works Department. As and when requisition is made by the Corporation, inspection shall be conducted and report shall given as expeditiously as possible. These are not matters which can brook delay. If a building is in a dangerous condition then it has to be pulled down as expeditiously as possible. If the matter is delayed then something calamitous can happen.

5. I direct the fifth respondent to conclude the enquiry on the petitioner's complaint and pass final order as contemplated under Section 136 of the Tamil Nadu Urban and Local Bodies Act, 1998. If the Commissioner sustains the stand of the writ petitioner, the building in question shall be pulled down without any delay. This is of course subject to any challenge that may be mounted by the occupants or any other interested persons against the Commissioner's order. In any event, the entire exercise shall be completed within a period of three months from the date of receipt of a copy of this order.



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6. This writ petition is disposed of accordingly. There shall be no order as to costs.

**09.10.2023**

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

To

- 1.The District Collector cum  
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**G.R.SWAMINATHAN, J.**

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