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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2024

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THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.Nos.4825, 4829, 4831 & 4833 of 2021
and

W.M.P.Nos.5448, 5449, 5452 & 5454 of 2021
and

W.M.P.Nos.11856, 11854, 11860, 11861, 11864,
11867, 11866 & 11862 of 2021

V.Pasupathi	.. Petitioner in W.P.No.4825 of 2021
J.Ravicharan Madik	.. Petitioner in W.P.No.4829 of 2021
A.Mohanraj	.. Petitioner in W.P.No.4831 of 2021
M.Peer Mohamed	.. Petitioner in W.P.No.4833 of 2021

Vs.

The Commissioner,
Nagapattinam Municipality,
Nagapattinam District – 611 001.

.. Respondents in all WPs

Prayer in W.P.No.4825 of 2021: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in Na.Ka.No.E1/ 455/ 2020 dated 04.12.2020 and quash the same and further direct the respondent not to proceed against the petitioner's shop No. 287/3, New No.887/3 situated in T.S No.993 of Nagore Town, without determining the stability of the shops structure by a competent Engineer of the respondent.



Prayer in W.P.No.4829 of 2021: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in Na.Ka.No.E1/ 455/ 2020 dated 04.12.2020 and quash the same and further direct the respondent not to proceed against the petitioner's shop No. 287/1, New No.887/1 situated in T.S No.993 of Nagore Town, without determining the stability of the shops structure by a competent Engineer of the respondent.

Prayer in W.P.No.4831 of 2021: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in Na.Ka.No.E1/ 455/ 2020 dated 04.12.2020 and quash the same and further direct the respondent not to proceed against the petitioner's shop No. 287, New No.887 situated in T.S No.993 of Nagore Town, without determining the stability of the shops structure by a competent Engineer of the respondent.

Prayer in W.P.No.4833 of 2021: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in Na.Ka.No.E1/ 455/ 2020 dated 04.12.2020 and quash the same and further direct the respondent not to proceed against the petitioner's shop No. 287/2, New No.887/2 situated in T.S No.993 of Nagore Town, without determining the stability of the shops structure by a competent Engineer of the respondent.



For Petitioner .. Mr.K.Karthikeyan, in all WPs.
For Respondent .. Mr.P.Srinivas,
Standing Counsel, in all WPs.

COMMON ORDER

Since the issue raised in all these four writ petitions are same, a common order is passed. For better appreciation of the case, W.P.No.4825 of 2021 is taken up for consideration.

2.The writ petitioner, V.Pasupathi in W.P.No.4825 of 2021, in his affidavit had stated that he is doing a small scale business of manufacturing ice in a tiled roof shop No.287/3, New No.887/3 measuring 320 sq.ft in Nagore Town for the past 40 years. The building is about 30 years old. It is located in the land belonging to Arulmighu Nagore Naganatha Swami Thirukoil in T.S.No.993 of Nagore Town.

3.It is contended that the respondent had issued the impugned notice seeking demolition of the shop stating that it is in a dilapidated condition. It is however contended that, no notices were issued to the petitioners prior to



issuance of the impugned notice. The petitioner's views were not sought. The building was not inspected. It is under those circumstances that the writ petitions have been filed.

4.A learned Single Judge had directed that the Municipal Engineer, Nagapattinam Municipality and the Executive Officer, Arulmighu Nagore Naganatha Swami Thirukoil, Nagore, should be impleaded as further respondents in the writ petitions. Necessary impleading petitions have also been filed. But however, as pointed out by both the learned counsel for the petitioners and the learned Standing Counsel for the respondents, the notice suffers owing to it being issued without any prior intimation to the petitioners or any inspection being conducted about the stability of the shop or the condition of the shop.

5.In view of the same, the impugned notices are quashed. Accordingly, the Writ Petitions are allowed. No costs. But however, liberty is reserved and granted to the respondent to follow appropriate procedure as laid down by law namely, by giving prior intimation to the petitioners and inspecting the building in the presence of the petitioners and come to a



subjective satisfaction about the nature of the building, whether it is stable or requires to be demolished or whether any repair work could make it stable.

Thereafter, a fresh notice could be issued to the petitioners. In view of the nature of the order passed, the impleading applications become redundant and the connected Writ Miscellaneous Petitions are closed.

25.11.2024

Index:Yes/No
Internet:Yes/No
smv

To

The Commissioner,
Nagapattinam Municipality,
Nagapattinam District – 611 001.



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C.V.KARTHIKEYAN,J.

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