



W.P.No.11280 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2024

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.11280 of 2024 &
W.M.P.Nos.12371 and 12378 of 2024

G.Sekar

... Petitioner

Versus

1. The Secretary to the Government of Tamilnadu
Municipality and Water Supply Department,
Fort St. George,
Chennai – 600 009
2. The Municipality Administrative Director,
Municipality Administrative Directorate,
Santhome High Road, Chennai – 600 028
3. The District Collector,
Thiruvannamalai District,
Thiruvannamalai
4. The Zonal Municipality Administrative Directorate
Gagithapattarai, Vellore – 12
5. The Zonal Engineer
Zonal Municipality Administrative Directorate
Gagithapattarai, Vellore – 12
6. The City Commissioner
Thiruvathipuram City,
Cheyyar - 604 407
7. The Municipal Engineer
Thiruvathipuram City,



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Cheyar – 604 407

...Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus to quash the impugned order Na.Ka/2053/2023/அ1 dated 27.02.2024 to call for the records of the 6th respondent and quash the same including demolishing disconnect electric service connection, water tap connection.

For Petitioner : Mr.V.K.Elango

For Respondents : Mr.A.M.Ayyadurai for R1 to R3
Government Advocate
Mrs.T.Girija – Advocate Commissioner

ORDER

The present Writ Petition has been filed for an issuance of a Writ of Certiorarified Mandamus to quash the impugned order Na.Ka/2053/2023/அ1 dated 27.02.2024 to call for the records of the 6th respondent and quash the same including demolishing and disconnecting electric service connection and water tap connection.

2. The case of the petitioner are as follows:-

(i) The petitioner is running Hotel business for the past 22 years under the name and style of Ashok Hotel in the Cheyyar Bus Stand after obtaining prior permission from the concerned authority. Further, the



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petitioner has been paying GST tax and other incidental charges to the Government property and the petitioner has paid monthly rent to the Municipality till now without any default or arrears of rent, there are 100 villages and those village people are utilizing the above bus stand premises for their livelihood. The said bus stand premises, which comes under Thiruvattipuram municipality is in the good condition and so there is no necessity to reinforce the said bus stand after demolishing the same.

(ii) The existing bus stand premises was built up by spending more than several lakhs and now the respondents are intending to demolish the same and due to the said act, the parking charges of the cycle stand, toilet charges, bus sunga charges, monthly rent collected from the licensed shop premises in the bus stand premises, will be ruined and so huge money loss would occur to the government. The petitioner had entered lease for the monthly premises of Rs.2,550 during the year 2001 and the above said monthly premium was increased by the municipality step by step and now, the petitioner is paying monthly premium of Rs.35,211/- to the Municipality along with GST amount of Rs.6,338/-, in toto, a sum of Rs.41,529/-, as monthly rent to the Municipality and the lease period is upto 31.03.2026. Without



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considering all these facts, the respondents have ordered to vacate and handover the premises within three days and the same is not at all sustainable either in law or on facts.

(iii) Though the respondents have received a sum of Rs.1,00,000/- , which was paid by the petitioner, however, due to the enmity, again they have called for tender and issued simply 3 days notice to the petitioner to vacate the hotel. The lease agreement of the petitioner ends only in the year 2026 and the new bus stand building was constructed on 07.10.2013 only, therefore, the present re-construction of the bus stand is not required. Moreover, vide Na.Ka.No.4130/2013, the petitioner is having rights over the property for more than 3 years to return the subject premises, thereby pleaded to allow the present petition.

3. The learned counsel for the petitioner would contend that since the Municipality is trying to renovate the bus stand premises, the respondents have issued a notice to the petitioner to vacate the subject property within a period of three days from the date of receipt of notice, however, the respondents failed to take note of the fact that the petitioner has paid the rent to the municipality without any default and the lease period is upto 31.03.2026. Further, the learned counsel relied on the



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order passed by this Court in **W.P.No.23924 of 2005 dated 07.09.2016**

**[Sri G.R.Govindarajulu & Sons V. The Regional Transport Officer
[South], Coimbatore** in support of his contention.

4. Resisting the same, the learned counsels appearing on the side of the respondents submitted that the subject property is in a dilapidated condition, as the building is 25 years old and the same should be accordingly renovated, thereby pleaded to dismiss the petition.

5. Heard the learned counsel on either side and perused the documents placed on record.

6. This Court, on an earlier occasion, viz.,26.04.2024, upon considering the submissions and the documents placed on record, appointed Mrs.T.Girija, as Advocate Commissioner, to visit the subject property and to produce the report. Accordingly, the Advocate Commissioner has filed a detailed report along with the photographs.

7. On a perusal of the Structural Stability Certificate issued by the Chartered Engineer / Structural Engineer dated 11.04.2023, it is seen



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that the physical condition of the existing building is moderate. The roof beam and the slab concrete of the existing building NDT test is not good and the same failed. Further, vertical cracks, cracks and water seepages were found in the said roof beam and slab. The rod is exposed and rusted. In toto, the existing building structure is unsafe. In conclusion, it is stated that the strength of Cheyyar existing bus stand beams and slab concrete are failed as it is a poor concrete.

8. At this stage, the learned counsel appearing for the petitioner would submit that if certain small repair works are carried out, the building need not be demolished and several lakhs of Government money would be saved. However, without considering the same, the respondents are trying to demolish the building, thereby causing huge loss to the Government.

9. It is pertinent to point out that upon considering all the averments stated by the petitioner, this Court, on an earlier occasion, viz., 26.04.2024 in order to ascertain the exact condition of the subject building, appointed Ms.T.Girija, as Advocate Commissioner, to visit the subject property. Accordingly, the report has been submitted by the



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Advocate Commissioner, wherein it could be seen that the building is unsafe. Further, the said report as well as the stability certificate submitted to the Government are in a very same manner, only on considering all the documents and the reports of the authorities, the Government has ordered for demolition and reconstruction, which cannot be stopped without valid reasons.

10. Moreover, it is to be noted that even according to the petitioner, certain repair works are to be carried out, while so, the report submitted by the Structural engineer to the Government and the report of the Advocate commissioner stating that the building is unsafe, cannot be brushed aside. That apart, according to the petitioner, there is no arrears of rent, in that case, the petitioner can approach the authorities and obtain no due certificate and participate in the auction.

11. In view of the above, this Court is of the view that the building is 25 years old and the same is also unsafe according to the report of the structural engineer, hence the order impugned granting permission to demolish and construct the building, which provides more facilities to the public cannot be stopped without any valid reason. Further, the



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petitioner's apprehension that he may not be permitted to participate in the auction is unnecessary, because according to the petitioner, he has paid the rent and there is no arrears of rent, the petitioner is at liberty to participate in the auction to be held after reconstruction by obtaining no due certificate. The government decision to reconstruct the dilapidated building, which provides more facilities to the public cannot be stopped without any valid reason.

In the result, the Writ Petition is dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

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Index : Yes/No
Internet: Yes / No
Speaking order : Yes/No

ssd

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