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W.P.No.17238 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.17238 of 2024

1.Deepa Priya

2.P.Prakash

... Petitioners

Vs.

1.The State of Tamilnadu,

Rep. By its Secretary,

Municipal Administration and Water Supply Department,

Fort St.George,

Chennai 600 009

2.The Commissioner,

Greater Chennai Corporation,

Ripon Building,

Poonamallee High Road,

Chennai 600 003

3.P.Velmurugan

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a writ of mandamus directing the 2nd Respondent to take necessary action under section 136 (1) of the Tamil Nadu Urban Local Bodies Act, 1998 against a dilapidated house building situated at Survey No.14 Part, Town survey No. 7, Block 1 bearing address as Old No.37 new No.50 29th Shivaji Street, GKM Colony, Chennai 600 082 admeasuring to a total extent of 2400 Sq.ft which is standing in a



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dilapidated and dangerous condition endangering human habitat and demolish the same by vacating the 3rd respondent from the aforementioned premises based on the petitioner's representation dated 03.04.2024 within the period stipulated by this Court.

For Petitioners : Mr.T.C.Gopalakrishnan

For Respondents

For R1 : Mr.V.Manoharan,
Additional Government Pleader

For R2 : Mr.E.C.Ramesh,
Standing Counsel

For R3 : M/s.M.Santhanamari

ORDER

This writ petition has been filed for direction to the second respondent to take necessary action under Section 136(1) of Tamilnadu Urban Local Bodies Act, 1998 against a dilapidated house building situated at survey No.14 Part, Town Survey No.7 Block 1 located at Old No.37, New No.50, 29th Shivaji Street, GKM Colony, Chennai admeasuring 2400 sq.ft.



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2. The petitioners were born through the second wife of one, C.Parasuraman. The third respondent was born through the first wife. The above property was owned by their father and their father by the settlement deed dated 16.09.2015, registered vide document No.4582 of 2015 settled the said property in favour of the petitioners. In a portion of the subject property, the third respondent is living with his family members. In the meanwhile, the third respondent also filed suit challenging the settlement deed and also for partition in OS.Nos.4947 of 2015 and 2586 of 2023 on the file of the VI Additional City Civil Court, Chennai. While being so, the petitioners submitted application for demolition and reconstruction of the subject property on the ground that the building is in dilapidated condition and dangerous to live there. The petitioners were also permitted to demolish and reconstruct by an order dated 24.02.2022. However, the petitioners could not able to demolish since the third respondent is living there in a portion of the property. The tenants were also vacated.



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3. Therefore, the petitioners submitted petition before the second respondent to take appropriate action under Section 136(1) of Tamilnadu Urban Local Bodies Act, 1998 to demolish as against the occupier of the subject building who is voluntarily and wilfully residing in the subject property which is in a dilapidated condition and to issue appropriate orders under Section 136(1) of Tamilnadu Urban Local Bodies Act, 1998. It is relevant to extract the provisions under Section Section 136(1) of Tamilnadu Urban Local Bodies Act, 1998 hereunder:

136.Power to order removal of dangerous building, 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 overcrowding in a building, the commissioner may, by an order in writing, require the owner of the occupier of such building to vacate, demolish, remove such building within the time limit specified in the said order.

4. However, the learned counsel appearing for the third respondent would submit that the portion in which the third respondent occupies, is in very good condition and he is living with his family



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members for the past several years. In order to evict the third respondent, the petitioners submitted application under Section 136(1) of Tamilnadu Urban Local Bodies Act, 1998. In fact, already the petitioners failed to get any interim order before the Civil Court and as such, by other way, now the petitioners have submitted application for demolition.

5. The learned counsel appearing for respondents 1 and 2 submitted that on inspection, it was found that some portion of the building is in dilapidated condition and the portion in which the third respondent is residing, is in good condition.

6. In view of the above, the second respondent is directed to engage an engineer from Public Works Department to inspect the subject building and submit a report with regards to stability of the building within a period of two weeks from the date of receipt of copy of this order. On receipt of the report, respondents 1 and 2 are directed to pass orders on the application submitted by the petitioners dated 03.04.2024 on the basis of the report within a period of two weeks thereafter.



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7. With the above directions, this writ petition is disposed of.

There shall be no order as to costs.

08.08.2024
(2/2)

Neutral citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
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To

1. Secretary,
The State of Tamilnadu,
Municipal Administration and Water Supply Department,
Fort St.George,
Chennai 600 009
2. The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Poonamallee High Road,
Chennai 600 003



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G.K.ILANTHIRAIYAN, J.

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