



WEB COPY



W.P.No.23807 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

W.P.No.23807 of 2023

The Secretary, Sunnath Jamath Mosque
@ Sheik Kaiyirullah Masjid Wakf,
No.297/443, Gandhi Road (Rear side),
Kancheepuram.

... Petitioner

Vs.

- 1.The District Collector,
Kancheepuram District,
Kancheepuram.
- 2.The Commissioner,
Kancheepuram Corporation,
Kancheepuram.
- 3.The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar, Chennai – 1.



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4.Chengalpet District Sarvodya Sangh,
Khadi Bhavan, Gandhi Road,
Represented by its Secretary,
No.297/443, Gandhi Road,
Kancheepuram.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 2nd respondent to demolish and remove the dilapidated, dangerous structure situate in T.S.No.1204, Door No.297, Theradi, Gandhi Road, Kancheepuram City, Kancheepuram Taluk and District, in light of the proceedings dated 27.02.2023 made in Na.Ka.No.2556/2023/F1 as sought vide representation dated 13.04.2023.

For Petitioner	:	Mr.N.A.Nassir Hussain
For R1	:	Mr.R.Vigneswaran Government Advocate
For R2	:	Mr.R.Gopinath Standing Counsel
For R3	:	Mr.S.Haja Mohideen Gisthi Standing Counsel
For R4	:	Mr.P.Dinesh Kumar



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ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

This writ petition is filed for issuance of a Writ of Mandamus directing the 2nd respondent to demolish and remove the dilapidated, dangerous structure situate in T.S.No.1204, Door No.297, Theradi, Gandhi Road, Kancheepuram City, Kancheepuram Taluk and District, in light of the proceedings dated 27.02.2023 made in Na.Ka.No.2556/2023/F1, as sought vide representation dated 13.04.2023.

2.The petitioner Wakf states that they are the owner of the property comprised in T.S.No.1204, Door No.297, Theradi, Gandhi Road, Kancheepuram City, Kancheepuram Taluk and District. It is the case of the petitioner that there is a 80 years old dilapidated, dangerous structure in the property posing imminent threat of collapsing any moment endangering public safety. The petitioner, therefore, made representation to the Corporation to take action for demolition of dilapidated/dangerous structure. Since no action is forthcoming, the petitioner has approached this Court by



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way of this writ petition.

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3.The Executive Engineer, Public Works Department, has made an inspection and submitted a report, dated 12.04.2024, to the District Collector, which is produced before this Court. The report indicates that the building is in damaged condition, warranting immediate demolition. It is in the said circumstances, the 4th respondent has come forward with an undertaking that the entire building may be demolished by the 4th respondent, in due course, as the petitioner has no objection for demolition of the building. The statement of the learned counsel for the 4th respondent that the building belongs to the writ petitioner is recorded. However, the petitioner, as owner of the premises, has some reservation to agree for demolition by the 4th respondent. Since the 4th respondent/Cooperative Society is in possession of the property and carrying on business, this Court is of the view that no serious prejudice will be caused to the petitioner.

4.In the stated circumstances, this Court is inclined to dispose of this writ petition with the following directions:



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- i. The 4th respondent shall file an application for demolition of the building.
- ii. The petitioner may give a consent letter without prejudice to their rights to initiate any proceedings for getting possession from the tenant.
- iii. When an application is filed by the 4th respondent for demolition before the authorities, the Commissioner, Kancheepuram Corporation, the 2nd respondent herein, is directed to consider the same and pass orders following the procedure. Even though the application for demolition must be by the petitioner who is the owner, the petitioner's consent can be taken note of by the 2nd respondent for processing the application for demolition.
- iv. The 4th respondent shall be given four months' time for demolition of the building.
- v. The 4th respondent shall also undertake to indemnify anyone if any injury is caused to anyone, in view of the fact that the 4th respondent is in possession as a tenant and at his instance, time is given to demolish the building.



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vi. Upon demolition, it is open to the petitioner or the 4th respondent to put up new construction on agreed terms. In case the petitioner and 4th respondent are unable to agree for any reasons, the petitioner shall complete the construction within 9 months from the date on which the demolition is completed as may be intimated to the petitioner by the 4th respondent. The 4th respondent is directed to pay rent at the reasonable rate that may be fixed by the petitioner subject to the liability of 4th respondent to pay the amount as may be fixed by competent Court in a suit or proceedings as rent or damages for use and occupation as the case may be, at the instance of petitioner. If the construction is put up by the petitioner, the portion of building with extent not less than $\frac{3}{4}$ th of extent in which the 4th respondent is in occupation shall be handed over to the 4th respondent who will be in possession till such time they take appropriate proceedings to evict the 4th respondent in the manner known to law. The petitioner and the 4th respondent may also agree for fresh terms if the 4th respondent is permitted to put up construction.



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(S.S.S.R., J.) (N.S., J.)
30.04.2024
(2/2)

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Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No

To

1. The District Collector,
Kancheepuram District,
Kancheepuram.
2. The Commissioner,
Kancheepuram Corporation,
Kancheepuram.
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