



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2024

CORAM

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

W.P.No.86 of 2017
and W.M.P.No.103 of 2017

I.R.John Samuel

.. Petitioner

Vs.

1.Tambaram Municipality
Rep. by its Commissioner,
Tambaram,
Chennai 600 045.

2.The Inspector of Police,
S-11, Tambaram Police Station,
Tmbaram.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned orders made in Na.Ka. No.1905/ 2014/ F1 dated 07.04.2016 and the final order made in Na.Ka.No.1905/ 2014/ F1 dated 13.06.2016 passed by the 1st respondent and the consequential order communicated to the 2nd respondent in Na.Ka. No.1905/ 2014/ F1 dated 09.12.2016 by the 1st respondent quash the same and to direct the respondents not to demolish, alter, disturb the structure of the petitioner's shop situated at No.203/27, Shanmugam Street, West Tambaram, Chennai-600 045.



For Petitioner .. Mr.G.Ethirajalu

For Respondents .. Mr.P.Srinivas
Standing Counsel for R1

Mr.S.J.Mohamed Sathik
Government Advocate for R2

ORDER

This writ petition has been filed in the nature of a certiorarified mandamus seeking records relating to two impugned orders dated 07.04.2016 and 13.06.2016 passed by the 1st respondent, Commissioner Tambaram Municipality, directing the petitioner to demolish the shop of the petitioner at No.203/27, Shanmugam Street, West Tambaram, Chennai – 600 045, and the consequential order passed by the 2nd respondent on 09.12.2016 on the same lines and to quash both the orders.

2.In the affidavit filed in support of the writ petition, the petitioner had stated he is the owner of Shop No.203/27 at Shanmugam Street in West Tambaram. It is one of a series of shops.. The petitioner is in the business of retail sales of home appliances, cooking utensils and other products. The name of the shop is Raja Stores. On 05.04.2016, another shop bearing Door No.30, which, according to the learned counsel for the petitioner is situated four shops away from the shop of the petitioner caught fire. That particular shop viz., the shop in Door No.30 sustained damages. Immediately, thereafter on 07.04.2016, a notice had been issued to the petitioner stating that the shop



of the petitioner must also be demolished and re-constructed. A further notice had been issued on 13.06.2016. Questioning those notices, the petitioner had come before this Court.

3.It is contended that the petitioner had renovated his shop and that, as on date, the shop is not in a position where it should be demolished. Further, it is contended by the learned counsel that Shop No.30, was situated four shops away from the shop of the petitioner. Owing to the smoke which emanated due to the fire, there were some minor damages to the shop of the petitioner. But the structure remained intact. The petitioner had also appointed an Engineer and had renovated the shop.

4.It is seen from the records that the notice had been issued on 13.06.2016. We are now nearly eight and half years from the date of that notice. The shop of the petitioner continues to exist. It had not collapsed or caused injury to anybody. The petitioner is continuing to do business as he was doing prior to the fire accident. This Court will also have to examine the reality as on date. The notices issued were more on a precautionary issue to ensure that further shops are not damaged and to prevent loss of damage to articles or loss of life. The situation has changed much over the past eight years.



5. The learned counsel also forwarded an assessment of stability and of the test of approximate concrete compressor strength by rebound hammer test in his shop. It is stated that the test had passed scrutiny. Let the situation remain as it is as on date. There is no necessity for the demolition of the shop of the petitioner. But however, the right and authority of the 1st or 2nd respondent to conduct periodic inspection is always available.

6. The writ petition stands allowed and the impugned orders are set aside. No Costs. Consequently, connected miscellaneous petition is closed.

18.12.2024

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation: Yes/No
ssr

To

1. Tambaram Municipality
Rep. by its Commissioner,
Tambaram,
Chennai 600 045.



2. The Inspector of Police,
S-11, Tambaram Police Station,
Tmbaram.



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C.V.KARTHIKEYAN,J.

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