



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2024

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.28030 of 2023
and W.P.Nos.27546 & 27547 of 2023

1.S.Chitra

2.S.Jayashree

...

Petitioners

versus

1.The Commissioner,
Office of the Corporation Commissioner,
Coimbatore Corporation,
Coimbatore - 641 001.

2.The District Collector,
Office of the District Collector,
Gopalapuram,
Coimbatore - 641 018.

3.The Commissioner of Police,
Office of the Commissioner of Police,
Old Post Office Road,
Opp. to Collector Office,
Gopalapuram,
Coimbatore -641 018.

4.K.Anandan

...

Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents 1 to 3 herein, to take action based on the petitioners representation to them dated 25.08.2023 and to remove the 4th respondent from the petitioners building located at Door No.305 & 306, Variety Hall Road, Ward No.82, Block No.9, Coimbatore Town and to demolish the same.

For Petitioners : Mr.GK.Muthukumaar

For Respondent No.1 : Mr.N.Velmurugan
Standing Counsel

For Respondent Nos.2&3: Mr.A.M.Ayyadurai
Government Advocate

For Respondent No.4 : Mr.C.D.Johnson

Mr.R.Magesh
appointed as Advocate Commissioner

ORDER

This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to take action based on the petitioners representation dated 25.08.2023 and also to remove the 4th respondent from the petitioners building located at Door Nos.305 & 306, Variety Hall Road, Ward No.82, Block No.9, Coimbatore Town.



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2. The petitioners claim is that they own the property at Door Nos.305 & 306, Variety Hall Road, Ward No.82, Block No.9, Coimbatore Town, which had two parts, each of which had been separately let out for rent. According to the petitioners, the said property was purchased by their grandfather, the late Kumarasamy Gounder, by virtue of a registered sale deed dated 07.12.1955 and after his demise, his wife Kumarathiamal and son K.Subramaniam partitioned his properties. By virtue of a registered Partition Deed dated 24.11.1984, the property was allotted to one K.Subramaniam, the father of the petitioners.

3. After the demise of K.Subramaniam, the petitioners inherited the said property as his only legal heirs and they also mutated the revenue records in their names. According to them, on 12.01.2018, the first respondent / Corporation has issued a notice calling upon them to demolish the building situated in the said property as it is in a dilapidated condition and it is unfit for human occupation.

4. According to them, the fourth respondent is a tenant in the eastern half of the building and after receipt of the above said notice from



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the first respondent / Corporation, the petitioners terminated the tenancy of the fourth respondent and also the other tenant, namely Dr.Rajan, who was occupying the western half of the building and asked both of them to vacate the said premises by the end of January, 2018. Dr.Rajan, vacated the premises in September 2018 itself but the fourth respondent, who initially agreed to vacate the premises by the end of January 2019, later refused to do so and continued in occupation of the eastern portion of the said premises till date. In January 2018 itself, the said tenancy has been terminated and no fresh lease agreement has been entered into between them. The first respondent / Corporation issued notice on 26.04.2018 to the petitioners for demolition and the petitioners had also paid the necessary charges on 03.05.2018 for demolishing the said building.

5. The fourth respondent filed a Civil Suit in O.S.No.844 of 2018 before the District Munsif, Coimbatore, praying for the relief of a permanent injunction to restrain the petitioners from interfering with his peaceful possession without due process of law and other reliefs. The said suit was dismissed for default by judgment and decree dated 03.12.2018.



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6. The petitioners seeking the fourth respondent to vacate the premises from 2021, but he has not proceeded further to vacate the same. The fourth respondent has filed I.A.No.2 of 2021 and another civil suit in O.S.No.1056 of 2021. The petitioners seeking interference of this Court and pass appropriate orders by directing the respondents 1 to 3 to take action based on the petitioners representation dated 25.08.2023 for demolishing the said house in Door No.305 & 306, Variety Hall Road, Ward No.82, Block No.9, Coimbatore Town

7. The petitioners also filed an application for appointing the Advocate Commissioner and the same was considered by this Court and the Advocate Commissioner viz. Mr.R.Magesh (Enrol.No.7972/2022) was appointed and he has filed a report before this Court. As per the report dated 04.06.2024, it is seen that on his visit, all the parties are present and the premises in the matter of the property is a shop run by the fourth respondent under the name and style of Anandh Furnitures, which was located on the main road on Variety Hall Road. The length of the shop is 30 ½ feet, the first 13 ¼ feet is a Madras terrace roof, the remaining 17 ¼ feet is asbestos sheet with a false ceiling. The ceiling of the shop is damaged and rainwater



leaks inside. All the walls were heavily damaged and covered with tin sheets. The shop on the left side has 90% of the wall collapsed, and the building is badly damaged on the left side. Behind the shop, there is a compound wall between the temple and the shop that is in dilapidated condition.

8. Further, the shop floor is cement flooring. The shop roof is Madras terrace concrete for one half and asbestos sheet for the other half, with a false ceiling which is soiled with water due to water leaks. On the west side of the shop, it is overgrown with trees and bushes due to which the roof of the shop being fully damaged. The western side shop has vacated and has fallen due to rain. The western side wall has cracks and is in highly dilapidated condition. The backside compound wall adjoining the temple and the backside of the building is dilapidated and in a falling condition.

9. All the pillars inside the shop are damaged with multiple cracks and the walls to the right of the shop can collapse at any time. If the back wall of the shop collapses, there is a chance that the backside compound wall will also be affected and their way of leading to the top floor of the



shop is in very dangerous condition. He has filed various photographs to show that the condition of the building.

10. It is seen that the building is in a very bad situation and at any time it may cause danger to the person, who is passing by with his shop. As the fourth respondent cannot run the said shop any further, this Court is of the view that from the year 2018 until the end of the lease period, the fourth respondent is sitting on the property, which may definitely cause danger to the persons visiting the shop as customers and all the workers, who are all working in the shop and hence, this Court is of the view that the Writ Petition has to be allowed

11. Accordingly, this Writ Petition is allowed and the first respondent / Commissioner is directed to take necessary steps to proceed further in the manner known to law. The fourth respondent is directed to vacate the premises on or before 31st July 2024. The petitioners are permitted to remove the fourth respondent from their building located at Door No.305 & 306, Variety Hall Road, Ward No.82, Block No.9, Coimbatore Town, if he fails to hand over vacant portion on 31.07.2024 in



the manner known to law by getting appropriate police protection. The parties are directed to pay the additional remuneration to the Advocate Commissioner. No costs. Consequently, connected Miscellaneous Petitions are closed.

07.06.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

sri



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V.BHAVANI SUBBAROYAN, J.

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