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WP.Nos.29956 of 2022 etc., batch cases

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2024

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

WP.Nos.29956, 29962, 29964, 29967, 29970, 29980, 29981 & 29983 of 2022
and
W.M.P.Nos.29361, 29369, 29372, 29377, 29379, 29390, 29393, 29397 of
2022

W.P.No.29956 of 2022

S.Sundar

.. Petitioner

Versus

1. The District Collector -
cum – District Magistrate
Karaikal, Puducherry – 609 602
2. The Sub Collector (Revenue)
Office of the Sub-Collector, Karaikal
3. The Commissioner of Municipality
Office of the Commissioner of Municipality
Karaikal Municipality, Karaikal
4. The Tahsildar
Office of the Tahsildar, Karaikal
5. The Executive Engineer
Buildings and Roads Division
Public Works Department
6. The Administrator
Hajee Moona Thambi Saiboo Maraikayar Trust
No.89, Kamarajar Salai
Karaikal

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings of the 1st respondent in No.1001/ DCK/ A3/ 2022 dated 01.09.2022 quash the same and consequently direct the 1st respondent herein to take necessary action on the petitioners representation dated 08.10.2019 based on the orders of this Honourable Court dated 07.08.2019 passed in W.P. No.22493 of 2019 etc.

In all cases

For Petitioners : Mr.G.Karthikeyan

For Respondents : Mr.V.Vasantha Kumar for R1 to R5
Additional Government Advocate (Puducherry)
No appearance for R6

COMMON ORDER

These writ petitions have been filed challenging the proceedings of the 1st respondent in No.1001/ DCK/ A3/ 2022 dated 01.09.2022 quash the same and consequently direct the 1st respondent herein to take necessary action on the petitioners' representation dated 08.10.2019 based on the orders of this Court dated 07.08.2019 passed in W.P. No.22493 of 2019 etc.

2. Since, the facts and circumstances of these are similar in nature, they are disposed of by way of this Common order. All these writ petitions have been filed challenging the impugned order passed by the 1st respondent, wherein, the occupants of the building have been directed to vacate and hand over the premises, on the ground that the building is in a very dilapidated



3. All the writ petitioners claim to run small shops in the building and they eke out their livelihood only from the income which they receive from the business. The building in question is more than 100 years and it was in a very dilapidated condition. A survey was conducted by the revenue authorities and a report was submitted in the year 2016 stating that the building is in a very bad condition and it will crumble any time. Based on this report, the 1st respondent passed an order dated 16.10.2018, directing the Administrator of the Trust to take steps to evict the tenants from the building and demolish the building.

4. Aggrieved persons filed writ petitions in W.P.No.22493, 22494, 22501, 22503, 22507 of 2019 and this Court by Order dated 07.08.2019, by way of a common order disposed of the writ petitions, wherein, in paragraph 10 has directed as follows:

“ In view of the above, this Court is not inclined to interfere with the order of the 1st respondent. However, in order to ensure that the livelihood of the petitioners is taken care, it will be open to the petitioners to make individual representations before the District Collector, Karaikkal explaining the number of years they have been doing business along with supporting materials and the District Collector is requested to consider the representation and act upon the same taking into consideration the livelihood of the petitioners. This Court is sure that the District Collector, Karaikkal, will look into the matter purely on humanitarian considerations. The petitioners shall also be given sufficient time to vacate the premises.”



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5. It is the grievance of the writ petitioners herein that pursuant to the representations to the first respondent, the first respondent has passed the impugned order dated 01.09.2022 directing the second respondent to issue individual notices to the occupants immediately to vacate the premises with their belongings if any and to hand over vacant premises by giving 15 days time. On expiry of the allowed time, the owner is directed to demolish the structure under intimation to PWD and Municipality. The Assistant Engineer, Slum Clearance Board has to allot tenement houses on priority basis to the families listed in the Annexure after following usual procedures. Challenging the order dated 01.09.2022, these writ petitions.

6. The learned counsel for the petitioners submitted that without providing for alternative accommodation as per the order of this Court dated 07.08.2019, the first respondent has passed the impugned order directing eviction of the petitioners and the same is contrary to the order of this Court. Hence, seeks to allow these writ petitions.

7. The learned Additional Government Pleader (Puducherry) would submit that premises in which the petitioners are occupants is highly in a



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dilapidated and dangerous condition and is posing dangerous life threat to the residents and occupants of the building. When the eviction notice was issued to the petitioners in the year 2018, wherein, the petitioners have filed writ petitions in W.P.Nos.22493 of 2019 etc., and this Court by Order dated 07.08.2019 in paragraph 8 has clearly issued a direction to the first respondent to vacate the premises by giving sufficient time. Though the order was passed on 07.08.2019, till now the petitioners have not taken any steps to vacate the premises. Hence, opposed the writ petitions.

8. Heard both sides and perused the materials placed on record.

9. Admittedly, the facts in these cases are not in dispute. The petitioners are running small shops in the building owned by the sixth respondent and the said building is aged more than 100 years and the same is highly in a dilapidated conditions and the survey was conducted in the year 2016 to report the structural stability of the building and the report suggests that the building is in heavily deteriorated conditions and it will collapse at any point of time. Thereby, order was issued to vacate the occupants. Challenging the said order, the occupants filed writ petitions in W.P.Nos.22493 of 2019 etc, batch and this Court by common order dated 07.08.2019 directed the first respondent to



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consider alternative premises and in the impugned order, the first respondent directed the second respondent to immediately vacate the occupants and also issued a direction to the Slum Clearance Board to allot tenement houses on priority basis to the families listed in the Annexure after following due process.

10. Such view of the matter, this Court is of the definite view that when the building is in advanced stage of deterioration and thereby endangering the lives of the residents, letting the occupants to live in such building cannot be permitted and accordingly, this Court does not find any infirmity in the order passed by the first respondent. The petitioners are directed to vacate the premises within a period of 15 days. It is also made it clear that if the official respondents evict the petitioners, demolish the building and take possession, in future, they construct commercial building, priority may be given to the petitioners and the order of this Court shall be followed scrupulously.

11. All these writ petitions are dismissed. Consequently, the connected miscellaneous petitions are closed.

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Index: Yes/No
Internet: Yes/No

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M. DHANDAPANI, J.

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