



WEB COPY



W.P. No. 34721 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2024

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 34721 of 2023

1. D.Kumar

2. Rita Kumar

... Petitioners

-VS-

1. The Commissioner,
Greater Chennai Corporation,
Ribbon Building,
Chennai - 600 003.

2. The Regional Deputy Commissioner (South),
Greater Chennai Corporation,
Ribbon Building,
Chennai - 600 003.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Respondents to take further action in respect of the notice No. Dn175/17/2020, dated 02.11.2020, issued by the Second Respondent under Section 258 of the Chennai City Municipal Corporation Act, 1919 within a time frame to be fixed by this Court.

For Petitioners : Mr. P.Suresh Srinivasan

For Respondents : Mr. D.B.R Prabhu



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ORDER

Heard P.Suresh Srinivasan, Learned Counsel for the Petitioners and Mr. D.B.R Prabhu, Learned Counsel for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. In the exercise of powers under Section 258 of the Chennai City Municipal Corporation Act, 1919, the Second Respondent has inspected the building in VJ Flats, Door No. 6/11, Gandhi Nagar 1st Crescent Park Road, Adyar, Chennai and noticed that it is in dilapidated condition and is dangerous to the occupiers of the building and to the neighboring structures. In such circumstances, the Second Respondent by Notice No. Dn175/17/2020 dated 02.11.2020 informed the First Petitioner, who is the one of the flat owners of the said property to fence off, take down, secure to repair the above mentioned structure so as to prevent any danger there from within a period of seven days from the date of receipt of that notice, failing which the undersigned himself will fence off, take down or repair or demolish or take such temporary measures as he thinks fit to prevent danger and the cost of doing shall be recoverable from him in the manner provided in Section 387 of the Chennai City Municipal Corporation Act, 1919 (hereinafter referred to as 'the CCMC Act' for short). In that



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backdrop, the Writ Petition has been filed for directing the Respondents to take further action in terms of the said notice within a time limit that may be fixed by the Court.

3. At this juncture, it must be pointed out that the CCMC Act has been repealed and the Tamil Nadu Urban Local Bodies Act, 1998 (hereinafter referred to as 'the TNULB Act' for short), has come into force with effect from 13.04.2023 and as per Section 133 of the TNULB Act, if the co-owners of the property require any demolition, they would have to jointly make necessary application under Section 133(2) of the Act. As its corollary, neither Section 258 of the CCMC Act, 1919, nor Section 133 of the TNULB Act, which are meant for ensuring public safety, can be said to confer the Petitioners with any independent right to seek relief quoting it without impleading all other co-owners of that building.

4. In such circumstances, Learned Counsel for the Petitioners seeks permission of the Court to withdraw the Writ Petition reserving the right of the Petitioners to agitate their claim for demolition of the building with other co-owners following the prescribed procedure in accordance with law, and he has made an endorsement to that effect in the court record.



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In fine, the Writ Petition is dismissed as withdrawn with the aforesaid clarifications. No costs.

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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 24.04.2024.

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To

1. The Commissioner,
Greater Chennai Corporation,
Ribbon Building,
Chennai - 600 003.
2. The Regional Deputy Commissioner (South),
Greater Chennai Corporation,
Ribbon Building,
Chennai - 600 003.



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P.D. AUDIKESAVALU, J.

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