



WEB COPY



WA.No.3620 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2024

CORAM:

THE HONOURABLE Mr.JUSTICE **R.SUBRAMANIAN**
AND
THE HONOURABLE Mr.JUSTICE **C.KUMARAPPAN**

WA.No.3620 of 2024
and
CMP.No.28340 of 2024

1. S.Sayad Musthafa
2. M.E.Mohammed Gulab
3. G.Thambi Durai
4. Jayanth
5. K.Arumugam
6. R.Shanmugasundaram
7. N.Vijayan

... Appellants

-Vs-

1. The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore.
2. S.K.Bhoopathy Yadav
M.S.Maruthachalam [deceased]
(Cause title accepted vide order dated 04.12.2024
made in CMP.No.27950/2024 in WA.No.SR.161203/2024)
3. The Standing Committee cum Appellate Authority,
Coimbatore City Municipal Corporation,
Coimbatore.
4. M.S.Prakash
5. Manunmani Rajarathinam
6. M.Suseela

... Respondents



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PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent praying to set aside the order passed in WP.No.2509 of 2020 dated 17.10.2024 on the file of this Court.

For Appellant : Mr.Sunny Sheen
for Mr.J.Kingsly Solomon

For Respondents : Mr.N.Umapathi
Standing Counsel for R1 & R3
Mr.S.Parthasarathy
Senior Counsel
for Mr.M.Guruprasad for R2
Mr.S.Rishab Narayanan for R4 to R6

J U D G M E N T

*[Judgement of the Court was made by **R.SUBRAMANIAN, J**]*

The appellants, who are tenants under the 2nd respondent were visited with the notice purportedly under Section 327 of the Coimbatore City Municipal Corporation Act, 1981 seeking demolition of the building under their occupation on the ground that it is dilapidated and has become dangerous. The said notice was challenged by the petitioners by way of an appeal under Section 452 of the said Act. It is stated that no order has been passed in the appeal by the Standing Committee, which the Appellate Authority. Pending appeal, another notice was issued on 27.01.2020 again



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under Section 327 of the Coimbatore City Municipal Corporation Act, 1981.

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Claiming that the second notice is without jurisdiction, the petitioners, rushed to this Court seeking a writ of Certiorarified Mandamus, to quash the notice and to dispose of the appeal. The Writ Court concluded that the building is in a dangerous condition and dismissed both the writ petition and the Appeal, leading to this Writ Appeal.

2. We have heard Mr.Sunny Sheen, learned counsel appearing for the appellants, Mr.S.Parthasarathy, learned Senior Counsel for Mr.M.Guruprasad, learned counsel appearing for the 2nd respondent, Mr.N.Umapathi, learned Standing Counsel appearing for the respondents 1 and 3 and Mr.S.Rishab Narayanan, learned counsel for the respondents 4 to 6.

3. Section 327 of the Coimbatore City Municipal Corporation Act, 1981 vests the power in the Commissioner to seek demolition of building which in his opinion is in a ruinous state or dangerous to passers by or to the occupiers. Section 452 of the said Act provides for an appeal against the order passed by the Commissioner under Section 327 to the Standing Committee. Admittedly, the appeal filed by the appellants was pending. In the interregnum, the Tamil Nadu Urban Local Bodies Act, 1998 was notified on and from 13.04.2023.



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Section 200 of the Tamil Nadu Urban Local Bodies Act saves the power of the Standing Committees to deal with the appeals filed under Section 452 predecessor enactment viz., Coimbatore City Municipal Corporation. Therefore, it was for the Appellate Authority to have disposed of the appeal. The learned Single Judge had chosen to not only dismiss the writ petition, but also dismissed the appeal, which in our considered opinion may not be correct. A statutory right of appeal has to be disposed of by the statutory authority and not by this Court. We therefore direct the Standing Committee to dispose of the appeal filed by the petitioner on 09.01.2020, within a period of twelve (12) weeks from the date of receipt of a copy of this order. Till such time, the appeal is disposed of. The first respondent will not take any coercive action for demolition of the building.

4. With the above directions, this Writ Appeal is disposed of. No costs. Consequently, connected CMP is also closed.

[R.S.M., J] [C.K., J]
06.12.2024

Index : No
Internet: Yes
Speaking Order
NCC : No
kmi

Note: Issue Order copy on 19.12.2024



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To

1. The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore.
2. The Standing Committee cum Appellate Authority,
Coimbatore City Municipal Corporation,
Coimbatore.



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R.SUBRAMANIAN, J
and
C.KUMARAPPAN, J

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