



W.P(MD)Nos.1908 and 1909 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.12.2024

CORAM :

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P(MD)Nos.1908 and 1909 of 2023

and

W.M.P(MD)Nos.1683 and 1691 of 2023

For W.P(MD)No.1908 of 2023

Abdul Kadar

... Petitioner

Vs

1. The District Collector,
First Floor, Collector Office,
Thoothukudi.

2. The Sub - Divisional Magistrate and
Revenue Divisional Officer,
Tiruchendur, Thoothukudi District.

3. The Tahsildar,
Tiruchendur,
Thoothukudi District.

4. Kadar Ali
(*R4 is Impleaded Vide Court Order
dated 06.08.2023)

... Respondents



W.P(MD)Nos.1908 and 1909 of 2023

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in Na.Ka.A3/8165/2022 dated 25.01.2023 and quash the same as illegal and consequently forbearing the respondents from demolishing the commercial structure situated in Survey No.311/1E2, Udangudi Village, Tiruchendur Taluk, Thoothukudi District.

For Petitioner : Mr.Mahaboob Athiff

For R1 to R3 : Mr.M.Murugamanikkam
Government Advocate

For R4 : Mr.M.Mohammed Sherbudean

For W.P(MD)No.1909 of 2023

S.Meera Naina Mohammed

... Petitioner

Vs

1. The District Collector,
First Floor, Collector Office,
Thoothukudi.

2. The Sub - Divisional Magistrate and
Revenue Divisional Officer,
Tiruchendur, Thoothukudi District.

3. The Tahsildar,
Tiruchendur,
Thoothukudi District.

... Respondents



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W.P(MD)Nos.1908 and 1909 of 2023

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in Na.Ka.A3/8165/2022 dated 25.01.2023 and quash the same as illegal and consequently forbearing the respondents from demolishing the commercial structure situated in Survey No.311/1E2, Udangudi Village, Tiruchendur Taluk, Thoothukudi District.

For Petitioner	: Mr.Mahaboob Athiff
For R1 to R3	: Mr.M.Murugamanikkam Government Advocate
For R4	: Mr.M.Mohammed Sherbudeen

COMMON ORDER

These writ petitions have been filed challenging the proceedings of the second respondent in Na.Ka.A3/8165/2022 dated 25.01.2023 in exercise of jurisdiction under Section 133 Cr.P.C.

2.When the cases were taken up for hearing, on 07.11.2024, this Court passed the following order:

*"The subject matter in both these writ petitions
pertains to the proceedings of the Sub-Divisional*



W.P(MD)Nos.1908 and 1909 of 2023

Magistrate/Revenue Divisional Officer, Tiruchendur, exercising jurisdiction under Section 133 of Cr.P.C. and directing the demolition of the property in which the petitioners are the tenants and are carrying on with their business.

2.On carefully going through the impugned order dated 25.01.2023, there is no indication as to whether the concerned authority took expert opinion on the condition of the building. The owner of the building states that the building is in a dilapidated condition and tenants are saying that the building is in fit condition. In the light of this disputed fact, the minimum that is required is to get an expert opinion.

3.The learned Government Advocate appearing on behalf of the official respondents seeks for sometime.

4.Post these writ petitions under the caption 'for orders' on 15.11.2024."

3.The cases thereafter was listed for hearing on 22.11.2024 and the following order was passed by this Court:

"When the matter was taken up for hearing today, the learned Government Advocate submitted that at the time when the impugned order was passed, the authority did not get any stability certificate from any expert. However, the learned Government Advocate produced the photographs of the present status of the building. On seeing those photographs, this Court gets an impression that the building is in a very dilapidated condition.

2.In order to confirm this fact, there shall be a direction to the Executive Officer of Udangudi Town Panchayat to take the services of the Structural Engineer belonging to the Government Department and conduct an inspection of the building and submit a report before this Court. The report shall reach before the next date of hearing. Based on the same, final orders will be passed in these writ



W.P(MD)Nos.1908 and 1909 of 2023

petitions.

3.Post these cases on 06.12.2024 at 2.15 p.m."

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4.Pursuant to the above order, the cases were listed for hearing today. At the time of hearing, the learned Government Advocate produced the report of the Executive Engineer along with the communication made by the Executive Engineer to the Executive Officer. On going through the report, it is seen that the building is in a very dilapidated condition and that occupation of the said building will certainly cause danger to the occupants. In the view of the same, the relief as sought for in these petitions cannot be granted by this Court.

5.Accordingly, these writ petitions stand dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

13.12.2024

Internet :Yes
Index :Yes/No
NCC :Yes/No

LR



W.P(MD)Nos.1908 and 1909 of 2023

To

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1. The District Collector,
First Floor, Collector Office,
Thoothukudi.
2. The Sub - Divisional Magistrate and
Revenue Divisional Officer,
Tiruchendur, Thoothukudi District.
3. The Tahsildar,
Tiruchendur,
Thoothukudi District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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W.P(MD)Nos.1908 and 1909 of 2023

N.ANAND VENKATESH, J.

LR

W.P(MD)Nos.1908 and 1909 of 2023

13.12.2024