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W.P.(MD)NO.11660 OF 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.11660 of 2024

V.S.Velayutham

... Petitioner

Vs.

1. The Ambasamudram Municipality,
Rep. by its Commissioner,
Ambasamudram, Tirunelveli District.

2. V.Rajammal
3. V.Manikandan

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to remove the dangerous structure of our building in Ambasamudrum main road, Natham Old survey No.229/1A, New survey No.707/14, Door No.14, 15, 16 and 31 by exercising power under Section 136 of Tamil Nadu Urban Local Bodies Act in the light of the petitioner's representation dated 02.04.2024 within a reasonable time to be determined by this Court.

For Petitioner : Mr.N.Dilipkumar

For R-1 : Mr.S.Packiya Muthu

For R-2 & R-3 : Mr.P.Alwin Balan

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ORDER

Heard both sides.

2. The petitioner is the owner of the petition-mentioned property. Respondents 2 and 3 are in occupation as tenants. According to the petitioner, the building has become old and dilapidated and he wants it to be demolished under Section 136 of the Tamil Nadu Urban Local Bodies Act. It reads as follows:-

“136. Power to order removal of dangerous buildings, trees, etc.—(1) Where it appears to the Commissioner at any time that any building is in a ruinous condition or is in any way dangerous or unfit for human habitation or over crowding in a building, the Commissioner may, by an order in writing, require the owner or the occupier of such building to vacate, demolish, remove such building within the time limit specified in the said order.

(2) Where it appears to the Commissioner at any time that any tree is in a ruinous condition or is in any way dangerous condition in any area of a municipality, he may by order in writing remove the tree forthwith.

(3) Where the owner or occupier of the building does not comply with the order issued under this section,



the Commissioner shall take such step in relation to the building or tree as may be necessary to prevent any occurrence of danger therefrom.

(4) All expenses incurred by the Commissioner, in relation to any building or tree under this section shall be recoverable from the owner or the occupier thereof, as the case may be, as arrears of land revenue.”

3. The first respondent is the authority competent to decide the issue. The first respondent shall conduct an enquiry in the matter. He will receive objections from the respondents 2 and 3. Opinion shall be obtained from the Engineer in the Government Department as regards the structural stability of the building. If the first respondent is satisfied that the building requires demolition, to ensure the safety of the passerby as well as the occupants, the building shall be demolished. But then, before doing so, a formal speaking order shall be passed by the first respondent. A copy of the same shall be served on the respondents 2 and 3 immediately. Respondents 2 and 3 will be given breathing time of three weeks to move the Court. If during the period of three weeks, respondents 2 and 3 are unable to obtain any restraint order, the building will be demolished. If the first respondent is of the view that the building is in a good condition and it does not require demolition, a formal and



speaking order shall be passed and served on the petitioner. The petitioner can work out his rights in the manner known to law. The first respondent will complete this exercise of passing an order within a period of eight weeks from the date of receipt of a copy of this order. I make it clear that I have not gone into the merits of the matter. This writ petition stands disposed of. No costs.

14.06.2024

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

To:

The Commissioner,
The Ambasamudram Municipality,
Ambasamudram, Tirunelveli District.



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G.R.SWAMINATHAN,J.

PMU

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