



W.P(MD)No.14102 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.03.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.14102 of 2023

and

W.M.P.(MD)No.11954 of 2023

J.Nazreen

... Petitioner

Vs.

1.The Commissioner,
Tiruchirappalli Corporation,
Tiruchirappalli.

2.The Assistant Commissioner,
Zone IV-Ponmalai,
Tiruchirappalli Corporation,
Tiruchirappalli.

3.G.Shanmugavel

4.K.Murugan

5.N.Venkatachalam

6.Syed

7.Sivalingam

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents 1 and 2 to cause inspection of the dilapidated and dangerous building situated at T.S.No.324/1, Part Ward J, Block 5, New T.S.No. 10/2 Part and 11, Ward X,



W.P(MD)No.14102 of 2023

Door N.32 and Door No.35, Promenade Road and Convent Road (presently known as Bharathidasan Salai), Trichy and examine its structural stability and consequently to demolish the Tiruchirapalli City Municipal Corporation Act, 1994 within the period that may be stipulated by this Court.

For Petitioners : Mr.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates

For Respondents : Mr.K.R.Krishna
for M/s.R.B.Associates for R1 & R2

: Mr.J.Barathan
for Mr.C.Jawahar Ravindran for R3

: Mr.K.S.Kathiravan
for R4, R5 & R7

: no appearance -R6

ORDER

Heard the learned senior counsel appearing for the petitioner and the learned standing counsel appearing for Trichirappalli Corporation and the learned counsel appearing for the private respondents.

2. The petitioner is the owner of the premises bearing Door No.32 & 35, Promenade Road & Convent Road, Trichirappalli. The respondents 3 to 7 are in occupation of the same as tenants. The petitioner applied to the first respondent for demolition of the building on the ground that it has been



W.P(MD)No.14102 of 2023

dilapidated and dangerous. The first respondent had issued notice under Section 327 of the Trichirappalli City Municipal Corporation, 1994. Challenging the same, some of the tenants had filed O.S.No.659 of 2022 on the file of the District Munsif Court, Trichirappalli for declaring the said order as null and void. The tenants do not appear to have obtained any interim order till date. In the meanwhile, the present writ petition came to be filed.

3. For causing inspection of the building and for finding out its structural stability, the writ petition was filed in June 2023. Tamil Nadu Urban Local Bodies Act, 1998 came into force on 13.04.2023. Therefore, reference to Section 327 of Trichirappalli City Municipal Corporation, 1994 may not be appropriate. However, in the Tamil Nadu Urban Local Bodies Act, 1998, there is a corresponding provision in Section 136. Section 136 of the Act is 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



W.P(MD)No.14102 of 2023

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.”

4. On the last occasion, this Court had directed the Department of Civil Engineering, National Institute of Technology, Trichirappalli to conduct inspection and submit its report. NIT had since submitted its report. The conclusion is as follows:-

“5. Conclusions and Recommendations:

Based on the visual inspection, rebound hammer tests and considering the age of the building the following are the conclusions:

I. The concrete compressive strength found from rebound hammer tests was on average of M10 to M15 indicating the expected concrete grade prevalent in the period of construction. The stability of the concrete is therefore normal for buildings of this age. Based on the location of the building, the exposure condition for the structure is mild.

II. The age of the buildings has according to the stated age of construction crossed the normally expected service life of general reinforced concrete buildings. Even as per the age from the date of gift settlement, the service life will be reached in 7 years. But due to the presently visible condition and appearance of the building, there is no assurance for the stability of the building and usage and safety of the occupants during these years.



WEB COPY



W.P(MD)No.14102 of 2023

*III. As seen from the widespread cracks in the roof slabs and walls, visible deflection of the roof slab and exposure of reinforcement in Shop 2 and Shop 3, the condition of the building, particularly as can be stated to be **critical**. The level of damages in these two shops is much greater than that of the other shops. Since all shops are placed within a single ground-storey-only building of relatively small dimensions (see 3.1), the condition seen from these two shops are to be considered as the condition of the building itself.*

*Overall the building has undergone high deterioration and damage due to aging. In many parts of the building, a lot of wide cracks due corrosion and concrete spalling was observed. Hence, primarily considering the level of damage and secondarily, the age of the building, renovation of the building **is unviable** for a building of this age and scale. Further, considering above reasons and giving due importance to the safety of users of the building, it is recommended that the building needs to be **demolished** immediately.”*

5. This in my view clinches the issue. The tenants inform this Court that they would vacate the petition mentioned premises at the end of the six months period. Since the report of the NIT has been made available, we are not in the realm of the disputed facts. Earlier notice issued by the Commissioner of Trichirappalli is confirmed. The suit in O.S.No.659 of 2022 on the file of the District Munsif Court, Trichirappalli is struck off. The petitioner is directed to demolish the petition mentioned building at the end of the six months period from today. Demolition shall be carried out by the petitioner in a manner without affecting the structural stability of the neighboring buildings.



W.P(MD)No.14102 of 2023

WEB COPY

6. The learned standing counsel for the corporation states that the rules contemplate submission of a demolition plan. Such a demolition plan shall be submitted by the petitioner well in advance. Any demolition plan to be submitted by the petitioner shall be endorsed and approved by the first respondent with or without modification. But the approval shall be given within a period of two months after the submission of the plan. The tenants (R3 to R7) herein shall pay the agreed rent during this six months period. If their advance is lying with the petitioner, there shall be a corresponding adjustment.

7. The Writ Petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

21.03.2024

Index : Yes / No
Internet : Yes/ No
rmi



WEB COPY



W.P(MD)No.14102 of 2023

G.R.SWAMINATHAN, J.

rmi

W.P(MD)No.14102 of 2023

21.03.2024