



W.P.(MD)No.23514 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.10.2024

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THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.23514 of 2024

and

W.M.P.(MD)No.19899 of 2024

G.Arumugam

... Petitioner

Vs.

1.The Director,
Directorate of Rural Development &
Panchayat Raj, Panagal Building,
Chennai-600 015.

2.The District Collector,
Ramanathapuram,
Ramanathapuram District.

3.The Block Development Officer,
Thiruvadanai Panchayat Union,
Ramanathapuram District.

4.The Tahsildar,
Thiruvadanai Taluk,
Ramanathapuram District.

5.The Executive Officer,
Thondi Major Panchayat,
Thondi,
Ramanathapuram District.

6.T.Mariyappan

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 5th respondent in Na.Ka.No. 36/2024 and quash the same as illegal and consequently for a direction forbearing the respondents or their subordinates from any way of dispossessing the petitioner from his house site property situated at Natham S.No.62/2 and 85/10 in Old Ward No.12, Chinnathondi Village, Thiruvadanai Taluk, Ramanathapuram District by considering his representation dated 23.09.2024 within a time stipulated by this Court.

For Petitioner : Mr.J.Udhayakumar
For R1, R2 & R4 : Mr.D.Sadiq Raja
Additional Government Pleader
For R3 & R5 : Mr.M.Senthil Ayyanar
Government Advocate

ORDER

This writ petition has been filed challenging the order passed by the 5th respondent in Na.Ka.No.36/2024 requiring the petitioner to vacate and demolish the dilapidated building, which is in occupation of the petitioner and to forbear the respondents or their subordinates from any way of dispossessing the petitioner from his house site property.

2.The facts leading to the filing of this writ petition, are as follows:



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(i)The petitioner is in possession and enjoyment of the subject property.

The sixth respondent, claiming to be the owner of the property, has filed writ petition in W.P.(MD)No.5762 of 2024, wherein this court by an order dated 03.04.2024, has passed the following order:

“4.In this view of the matter, the order impugned in this writ petition is set aside. The matter is remitted to the file of the fifth respondent. The fifth respondent will undertake spot inspection. If the fifth respondent is satisfied that the building is old and dilapidated, permission as sought for by the petitioner shall be granted. The entire exercise shall be completed within a period of ten weeks from the date of receipt of a copy of this order.”

(ii)The petitioner claiming to be in possession of the property, he has filed writ petition in W.P.(MD)No.15174 of 2024 not to vacate him from the house, wherein this Court by an order dated 09.07.2024 has passed the following order:

“The petitioner states that he is in possession of the building and that by suppressing his interest in the matter, the said order was obtained. I do not want to go into the factual aspects. I make it clear that before passing any final order, the authority is bound to hear the petitioner herein. the order passed by me should not be taken as positive direction for demolition of the building. It should be



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understood appropriately. I have only held that the authority must be satisfied that the building is old and is posing danger to the passers-by and is in dangerous condition. It is open to the petitioner herein to satisfy the authority that the building is not in a dangerous condition. It is the authority who will take the final call. Based on his decision, further action will be taken. The order dated 03.04.2023 made in W.P. (MD)No.5762 of 2024 is accordingly clarified.”

(iii)Based on that order, the authorities had inspected the premises and found that the house consists of three rooms. One room is already completely damaged and other two rooms are also totally dilapidated condition and it is not fit for human usage. It is under the occupation of the petitioner. Hence, they ordered the occupier to demolish the building. It is also stated that if the occupier does not vacate and demolish the building, it would lead to human casualties and directed not to reside in the said house, besides ordering demolition. Challenging the said order, this writ petition has been filed.

3.The only contention of the petitioner is that he prepared to demolish the house. However, he seeks permission to file an application for reconstruction of a new house.



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4. Heard the learned counsel appearing on either side and perused the materials placed on record.

5. From the submissions, it came to know that already a suit is pending between the petitioner and the sixth respondent in O.S.No.43 of 2024. Copy of the plaint annexed in the typed set of papers indicates that as far as the house property is concerned, the petitioner sought permanent injunction against the sixth respondent and others and as far as item No.2, vacant site is concerned, recovery of possession is sought by the petitioner. It appears that only in the house property alone, the petitioner is in occupation. It is also confirmed by the authorities.

6. In such view of the matter, let the petitioner vacate the house and demolish the same and make a fresh application for reconstruction. On such application, the authorities shall consider the same and pass necessary orders granting permission to construct a new house within a period of one month from the date of receipt of a copy of the application. It is made clear that mere construction of a new house as per the direction of this Court, will not amount to establish the title of the petitioner and the right of title will always subject to the result of the suit pending in this regard.



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7. Taking note of the nature of the building and its condition seen from the photographs produced, as it is in very dangerous condition and it is unfit for human habitation, the petitioner is directed to vacate the house and demolish the same immediately. Taking note of the fact that the north east monsoon is also to be set in within a week, the petitioner is directed to vacate the building immediately. If the petitioner does not vacate the premises immediately, the authorities can remove the petitioner from the place and demolish the building to prevent any human casualties in the neighboring.

8. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

03.10.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
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N.SATHISH KUMAR, J.

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