



W.P.(MD) No.20858 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.20858 of 2018

T.Sundar

... Petitioner

/vs./

- 1.The Commissioner,
Karaikudi Municipality,
Karaikudi,
Sivagangai District.
- 2.The Executive Engineer,
TANGEDCO,
Kalanivasal,
Karaikudi,
Sivagangai District.
- 3.The Assistant Executive Engineer,
TNEB,
Kalanivasal,
Karaikudi,
Sivagangai District.
- 4.Ibrahim Sherif
- 5.A.Shanmugasundaram



W.P.(MD) No.20858 of 2018

6.K.Ganesan

7.P.Raghavan Chettiar

8.P.Saravanan

9.B.Venkatachalam

10.G.Saravanan

11.CT.Alagusundaram

12.PKN.Ramasubbu

13.A.Veerappan

14.S.Abdul Samad

15.S.Mohammed Abdul Nazer

16.T.Subramanian

17.T.Mariappan

18.T.Thiyagarajan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 1 to 3 herein to take action for removal of the structure under the name & Style MRS Diamond Building opposite to Sri Koppudaiyamman Koil comprised in T.S.Nos.295, 297, 298, 299, 300, 302 to 304 Amman Sannathi, Karaikudi Town, Sivaganga District by directing the occupants to vacate and by disconnecting the electricity service



W.P.(MD) No.20858 of 2018

connection for the said building and by taking appropriate preventive measures as per the Provisions of Section 218 of District Municipalities Act in follow up of the notice dated 20.02.2018 issued by the first respondent.

For Petitioner : Mr.S.Manikandan

For R1 : Mr.D.Venkatesh

For R2, R3, R12,
R13 & R16 to R18: No appearance

For R4 : Mr.P.Mohammed Sohail for
M/S.Ajmal Associates

For R5 : No appearance

For R6 : Mr.S.Poornachandran

For R7, R11,
R14 & R15 : Mr.J.Anand Kumar

For R8 : Mr.V.Meenakshi Sundaram

For R9 & R10 : Mr.Selva Aditya for
Mr.G.Prabhu Rajadurai

ORDER

The petitioner has filed this writ petition for a Mandamus to direct the respondents 1 to 3 to take action for removal of the structure under the name and style 'MRS Diamond Building' opposite to Sri Koppudaiyamman Koil comprised



W.P.(MD) No.20858 of 2018

in T.S.Nos.295, 297, 298, 299, 300 and 302 to 304 at Amman Sannathi, Karaikudi Town, Sivaganga District.

2.The petitioner has attempted to circumvent the law by invoking the jurisdiction of the Executive Authority under Section 218 of the Tamil Nadu District Municipalities Act, 1920. The said provision reads as under:-

“218.Precautions in case of dangerous structures:-

1) If any structure appears to the executive authority to be in a ruinous state and dangerous to the passers-by or to the occupiers of neighbouring structures, the executive authority may, by notice, require the owner or occupier to fence off, take down, secure or repair such structure so as to prevent any danger therefrom.

2) If immediate action is necessary, the executive authority shall himself, before giving such notice or before the period of such notice expires, fence off, take down, secure or repair such structure or fence off a part of any street, or take such temporary measures as he thinks fit to prevent danger and the cost of doing so shall be recoverable from the owner or occupier in the manner provided in section 344.

3) If in the opinion of the executive authority, the said structure is imminently dangerous to the inmates thereof, the executive authority shall order the immediate evacuation thereof and any person disobeying may be removed by any police officer.”



W.P.(MD) No.20858 of 2018

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3.The said Act has now been repealed and has been substituted with Tamil Nadu Urban Local Bodies Act, 1998 with effect from 13.04.2023. Section 136 of the Act deals with the same powers with the Commissioner. It reads as under:-

“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.”

4.The respondents 4 to 16 are the tenants of the petitioner. The respondents 17 and 18 are the co-owners along with the petitioner. The attempt of the petitioner appears to be to evict the respondents 4 to 16 by circumventing the rights of the respective private respondents, namely respondents 4 to 16 under the



W.P.(MD) No.20858 of 2018

WEB COPY provisions of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, which now stands repealed and substituted with Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017. In any event, if the building is in dangerous condition, under Section 218(1) of the Act or under Section 136 of the Tamil Nadu Urban Local Bodies Act, 1998, it is the duty of the Authority to first ensure that the property, which is in dangerous condition, is protected. The evacuation of evicting the resident is the last stage. The order is dated 20.02.2018. Now, we are in 2024. *Prima facie* it appears that the impugned order passed on 20.02.2018 was un-warranted and was at the behest of the petitioner. It was not a *suo motu* exercise of power under Section 218 of the Act.

5.Considering the same, this Court directs the first respondent to appoint an Executive Engineer, Building Construction and Maintenance Division, District Collector Complex, Sivagangai to visit the property and give a report on the structural stability of the property within a period of 30 days from the date of receipt of a copy of this order. Subject to such report of the Executive Engineer, further orders will be passed.



W.P.(MD) No.20858 of 2018

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6.The Writ Petition stands disposed of with the above direction. No costs.

Index : Yes / No
Internet : Yes / No
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03.04.2024

Copy to

The Executive Engineer,
Building Construction and Maintenance Division,
District Collector Complex,
Sivagangai.



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W.P.(MD) No.20858 of 2018

C.SARAVANAN, J.

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W.P.(MD) No.20858 of 2018

03.04.2024