



1

W.P.(MD)NO.30018 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.30018 of 2023 AND

W.M.P.(MD)No.25903 of 2023

Thangavelu

... Petitioner

Vs.

1. The District Collector,
Madurai District, Madurai.
2. The Block Development Officer(VP),
Usilampatti Panchayat Union,
Madurai District.
3. The Panchayat President,
Thootappanayakkanur Village,
Usilampatti Taluk, Madurai District.
4. Gurunathan
5. Muneeswari

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned dispossession order passed by the third respondent in Na.Ka.No.3/2023.தொ.ஊர் dated 27.11.2023 as illegal and quash the same.

For Petitioner	: Mr.J.Senthil Kumaraiah
For R-1 to R-3	: Mr.T.Villavankothai, Additional Government Pleader.
For R-4 & R-5	: Mr.J.Gunaseelan Muthaiah

* * *

**ORDER**

WEB COPY

Heard both sides.

2. The writ petitioner and the fourth respondent are siblings.

The fifth respondent is the wife of the fourth respondent. The respondents 4 and 5 are residing in the ground floor of the petition mentioned premises. The petitioner claims to be in occupation of the first floor. The case of the private respondents is that the entire building has to be demolished as it has become old and dilapidated and it became dangerous structure posing threat to the safety of everyone around. The fifth respondent herein filed W.P.(MD)No.29173 of 2022 and it was disposed of on 14.06.2023 in the following terms:-

" This writ petition has been filed in the nature of a mandamus seeking a direction to the second and third respondents to grant permission to the petitioner to demolish his house property, since it is a dilapidated condition and situated in S.No.580/1 and D.No.16/1 Thottappanayakkanur Village, Usilampatti Block, Madurai.

2.The petitioner is the owner of the property. In the representation given, dated 17.11.2022 to the second and third respondents herein, she had stated that the house is in a dilapidated condition and she fears that it may



collapse at any moment. The fourth respondent had been impleaded by a Court order dated 25.01.2023. He is only a tenant in the portion. He cannot claim any additional right when the building is in a dilapidated condition. The petitioner is directed to give a proper application seeking demolition and reconstruction of the house.

3.In the first instance, for demolition, necessary application may be filed. Necessary charges may be paid. If such permission is granted, after following due procedure by the second and third respondents, the fourth respondent will necessarily have to vacate the premises. The petitioner may therefore give necessary application and when it is given, the second and third respondents may process the same and pass necessary orders in the manner known to law.

4.With the above direction, this Writ Petition is disposed of. No costs."

3. Pursuant to the said direction, the impugned order dated 27.11.2023 came to be passed. The petitioner has been called upon to vacate the petition mentioned premises within 15 days so that the building can be demolished. Challenging the same, the present writ petition came to be filed.

4. I heard the learned counsel on either side.



WEB COPY

5. Section 144(1) of the Tamil Nadu Panchayats Act 1994 empowers the local body to bring down any dangerous structure. Before doing so, the interested persons must be put on notice. The authority must be satisfied based on relevant inputs that the building is really in a dangerous and dilapidated condition. The assistance of any civil engineer if possible from the Government Department has to be taken. The inspection of the premises should be done. After the persons in occupation of the premises are given an opportunity to place their case and after taking into account all the relevant aspects, an order for pulling down the structure can be passed by the Panchayat President. In this case, the petitioner was not put on notice. There is nothing on record to show that the certificate regarding the structural stability of the building was obtained. For these two reasons alone, the impugned order is set aside. The matter is remitted to the file of the third respondent. The third respondent will bear in mind the direction issued. Final order on merits and in accordance with law will be passed by the third respondent within a period of eight weeks from the date of receipt of a copy of this order. If the third respondent is sticking to the decision to demolish the building, communication to that effect will be issued to the writ petitioner. The



petitioner shall be given breathing time of two weeks from the date of receipt of any such order. If the petitioner is unable to obtain any interim order, the building in question shall be demolished. This writ petition stands allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

08.04.2024

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

To:

1. The District Collector,
Madurai District, Madurai.
2. The Block Development Officer(VP),
Usilampatti Panchayat Union,
Madurai District.
3. The Panchayat President,
Thootappanayakkanur Village,
Usilampatti Taluk, Madurai District.



WEB COPY



6

W.P.(MD)NO.30018 OF 2023

G.R.SWAMINATHAN,J.

PMU

W.P.(MD)No.30018 of 2023

08.04.2024