



WEB COPY

W.P.No.1854 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2025

CORAM
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P.No.1854 of 2025
and
W.M.P.Nos.2127 & 2130 of 2025

K.Sadhanandham

... Petitioner

Vs.

1. The Commissioner,
Erode Municipal Corporation,
No.894, Meenakshi Sundaranar Salai,
Paneerselvam Park, Erode - 638 001.
2. The Assistant Commissioner,
Erode Municipal Corporation -Zone II,
No.894, Meenakshi Sundaranar Salai,
Paneerselvam Park, Erode - 638 001.
3. K.Mohanasundaram
4. K.Annapoorani
5. P.A.Kittuswamy

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, seeking for an issuance of writ of certiorarified mandamus, calling for the entire records relating to the impugned order dated 30.12.2024 passed by the second respondent by and through his proceedings Na.Ka.No.E1/4183/2024



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dated 30.12.2024 and quash the same as illegal and consequently forbear the respondents from in any way interfering with the petitioner's peaceful possession and enjoyment over the subject lands comprised in Old Town Survey No.728, New Town Survey No.39 of the Block No.38, Prakasam Street, Ward "C" in the Erode Town and District measuring to an extent of 130 sq.meters or 1,399 sq.feet.

For Petitioner : Mr.A.M.Kamalnath

For Respondents : Mr.M.Rajamathivanan
for R1 & R2
: Mr.R.T.Vishnu for R3 & R4
: Mr.S.Sunil for R5

ORDER

(Order of the Court was made by **S.M.SUBRAMANIAM, J.**)

The writ petition has been instituted challenging the order dated 30.12.2024 passed under Section 136(1) of the Tamil Nadu Urban Local Bodies Act, 1998 (hereinafter referred to as "the Act").

2. Heard both the parties.

3. Section 136 of the Act provides power to order removal of dangerous buildings, trees etc., Sub-Section (3) to Section 136 denotes that

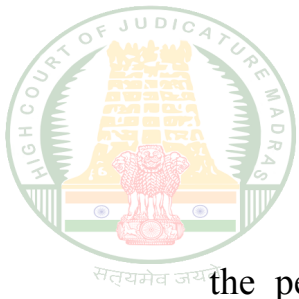


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"Where the owner or occupier of the building does not comply with the order issued under this Section, the Commissioner shall take such step in relation to the building or tree as may be necessary to prevent any occurrence of danger therefrom." Sub-Section (4) to Section 136 enumerates "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. In the context of the above provision, the impugned notice dated 30.12.2024 has been issued.

5. It is admitted that the building in the subject land is in dilapidated condition. The photographs of the building enclosed along with the typeset of papers reveals that it is partly demolished already and the remaining portions are posing threat to life and property of the persons inside and outside the building. The subject property has not even fenced and the property situate in the main road connecting to arterial road. Therefore, it is dangerous to the public as well as the road users in that locality. Hence, we do not find any infirmity in respect of the order passed by the official respondent in proceedings 30.12.2024.



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6. Mr.A.M.Kamalnath, the learned Counsel appearing on behalf of the petitioner would submit that a partition suit in O.S.No.439 of 2024 between the family members is pending.

7. Mere pendency of a suit is not a bar to invoke Section 136 of the Act, since the building in the subject land is in dilapidated condition and causing threat to life of a person using the arterial road and the main road. Thus, immediate actions are imminent and any further delay may result in an untoward incident and in such circumstances, the owner or the occupier must be held liable and accountable.

8. In view of the facts and circumstances, the impugned order dated 30.12.2024 stands confirmed and the Official respondents are directed to demolish the building in the subject lands, immediately without causing any undue delay. The costs involved for demolition of the building shall be recovered from the writ petitioner and the respondents 3, 4 and 5. If the petitioner and the respondents 3, 4 and 5 have come forward to demolish the building in the subject property, they may be permitted to do so and the same may be monitored by the respondents 1 and 2.



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With the above directions, the Writ Petition stands **disposed of**. No costs. Consequently, connected miscellaneous petitions are closed.

[S.M.S,J.] [K.R.S,J.]

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veda

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

To

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