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WP NO. 39576 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2025

CORAM

THE HONOURABLE MRS JUSTICE N. MALA

WP NO. 39576 of 2024

and W.M.P.Nos.42864 and 42866 of 2024

1. Segu Sulthan @ S.S.Sulthan
2.Hamdhunisa

...Petitioners

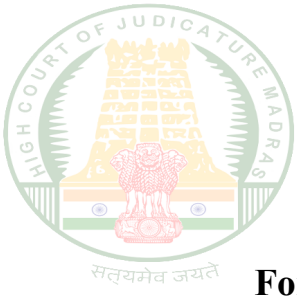
Vs.

1.The Commissioner,
Komarapalayam Municipality,
Namakkal District.
2.The Food Safety Officer,
Komarapalayam Municipality,
Government Hospital Compound,
Kumarapalayam - 638183
3.The Designated Officer,
Food Safety and Standards Authority
Namakkal District.
4.Jyothi @ Amirthajothi
5.Prabakaran
6.Somasundaram

..Respondents

Prayer : Writ Petition is filed under Article 226 of Constitution of India for issuance of writ of Mandamus, to direct the 1st, 2nd and 3rd respondents to either pass necessary, suitable and positive orders demolish the dilapidated and decrepit building or renovate the same, occupied by the respondents 4 -6 or by any other person who are in occupation of the petition property bearing No.14/49 and 9/49 A, Edappadi Road, Komarapalayam, 638183, Namakkal District.

For Petitioners: M/s.M.J.Jaseem Mohamed



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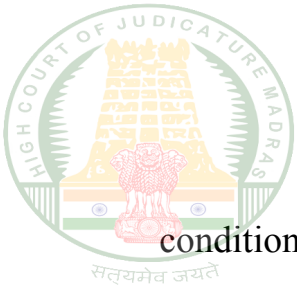
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For Respondents: Mr.M.S.Prem Kumar for R1
Government Advocate
Mr.Tippusultan for R2 and R3
Government Advocate

ORDER

This petition has been filed to direct the 1st, 2nd and 3rd respondents to either pass necessary, suitable and positive orders to demolish the dilapidated and decrepit building or renovate the same, occupied by the respondents 4 -6 or by any other person who are in occupation of the petition property bearing No.14/49 and 9/49 A, Edappadi Road, Komarapalaym, 638183, Namakkal District.

2. The petitioners are the co-owners of the schedule mentioned property by virtue of sale deed dated 11.09.1991, registered as Document No.2758/1991 on the file of SRO, Komarapalayam. The petitioners leased out the said property to the husband of the 4th respondent namely Kuppusamy on 01.01.2009, for running a hotel under the name and style of "Amirtham" on a monthly rent of Rs.5,000/-. After the death of said Kuppusamy, the respondents 4 to 6 who are the legal heirs continued to run the business in the said premises by paying the enhanced rent of Rs.11,000/-. While so, the 1st respondent-Commissioner of Komarapalaym Municipality issued a notice dated 27.05.2022, stating that the petition mentioned property was in a dangerous



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condition. The petitioner states that the said order was issued at the instigation

of the general public who were residing in and around the bus stand. On

16.06.2022, the Food Safety Officer of Komarapalaym Municipality, also

issued a notice under Rule 2.4(1) and Section 2.1.8(4) of the Food Safety and

Standard Act, 2006 to the private respondents to stop their hotel business in the

petition mentioned property due to the unsafe and unhygienic condition of the

building. Therefore, the petitioners requested the respondents to vacate the

petition mentioned property by terminating the tenancy on 01.07.2022.

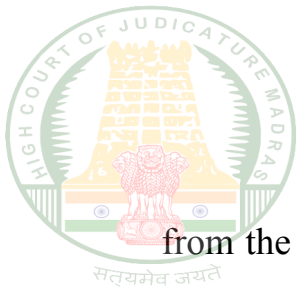
Meanwhile, the private respondents filed a suit in O.S.No.60 of 2022 on the file

of the District Munsif, Komarapalayam, restraining the petitioner's from

evicting them except by due process of law.

3. The petitioner's state that despite various orders passed by the authorities, the respondents did not vacate the dilapidated building and therefore, the petitioner's were constrained to file the above writ petition for the aforesaid relief.

4. The respondents 4 to 6 filed a detailed counter stating that the petitioner's have approached the Trial Court in RLTOP.No.2 of 2024, before the learned District Munsif of the Rent Court, Komarapalayam for eviction of the respondents, and the same is pending. The respondents state that the suit filed for the interim injunction restraining the petitioners from evicting them



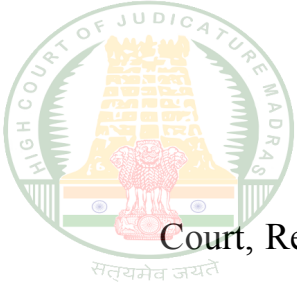
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from the premises without following due process of law in O.S.No.60 of 2022, in which the petitioner's have also filed their written statement is also pending trial. The respondents therefore stated that the dispute was purely of a civil nature triable by the Competent Civil Court and hence, the writ petition deserved to be dismissed.

5. Learned Government Advocate appearing for the first respondent submitted that the first respondent conducted a spot visit of the 4th respondent hotel, and found that it was running peacefully. The respondents found that the building was also structurally strong. The learned Government Advocate therefore submitted that the first respondent did not take any further steps pursuant to the notice dated 27.05.2022. The learned Government Advocate submitted that the dispute is purely of civil nature and hence prayed to dismiss the writ petition.

6. Heard the learned counsels on either side and perused the materials available on record.

7. Admittedly, the petitioner's are the landlord of the subject premises and they leased out the premises to the private respondents who are conducting hotel business there. Admittedly two civil proceedings are pending, one before the Rent Control Court in RLTOP.No.2 of 2024 before the District Munsif



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Court, Rent Court at Komarapalayam and another in O.S.No.60 of 2022 before

WEB the District Munsif Court, Komarapalayam filed for interim injunction.

8. In my view since the parties have already invoked the civil Court's jurisdiction, the writ petition cannot be entertained. Hence, I do not find any merit in the present writ petition. Accordingly, the writ petition is dismissed. The petitioner shall work out his remedy before the Civil Court. No costs. Consequently connected miscellaneous petitions are closed.

25.06.2025

Index :Yes/No
Internet :Yes/No
msv

To

1.The Commissioner,
Komarapalayam Municipality,
Namakkal District.

2.The Food Safety Officer,
Komarapalayam Municipality,
Government Hospital Compound, Kumarapalayam - 638183

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N. MALA, J.

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