



W.A(MD)No.434 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.03.2025

CORAM:

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.A(MD)No.434 of 2025
and
C.M.P(MD)No.3349 of 2025**

T.Mariappan

... Appellant/6th Respondent

vs.

1.G.Arumugam

... 1st Respondent/Writ Petitioner

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

3.The District Collector,
Ramanathapuram,
Ramanathapuram District.

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

5.The Tahsildar,
Thiruvadanai Taluk,
Ramanathapuram District.



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

... Respondents /Respondents 1 to 5

PRAYER : Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 03.10.2024 made in W.P(MD)No.23514 of 2024 on the file of this Court.

For Appellant : Mr.RM.Arun Swaminathan

For RR 2 to 6 : M/s.D.Farjana Ghoushia
Special Government Pleader

JUDGMENT

(Judgment of the Court was delivered by J. NISHA BANU, J.)

The present Writ Appeal is directed against the order passed by the Writ Court dated 03.10.2024 made in W.P(MD)No.23514 of 2024.

2.The first respondent/writ petitioner has filed the Writ Petition challenging the order passed by the fifth respondent therein in Na.Ka.No.36 of 2024, dated 19.09.2024, requiring the first respondent/writ petitioner to vacate



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and demolish the dilapidated building, which is in occupation of the writ petitioner and to forbear the respondents therein or their subordinates from any way of dispossessing the writ petitioner from his house site property.

3.The Writ Court, after considering all the materials available on record, disposed of the Writ Petition directing the writ petitioner to vacate the house and demolish the same immediately and further stated that if the writ petitioner does not vacate the premises immediately, the authorities can remove the writ petitioner from the place and demolish the building to prevent any human casualties in the neighboring. Challenging the same, the sixth respondent as appellant has preferred the present Writ Appeal.

4.The learned counsel appearing for the appellant stated that the appellant owned land comprised in Survey No.62/2 in old Survey No.85/10 at Ward No.12, Chinnathondi Village, Thiruvadanai Taluk, Ramanathapuram District. The first respondent/writ petitioner is the tenant in the abovesaid property. Since the building in the said survey number was in a dilapidated condition, the appellant requested the writ petitioner to vacate the premises. But



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he refused to vacate the premises and claimed that the subject land belonged to him. While being so, the writ petitioner filed a suit in O.S.No.43 of 2024 on the file of the Sub Court, Ramanathapuram, for the relief of declaration as against the appellant and the same is pending.

5.The learned counsel appearing for the appellant further stated that without issuing notice to the appellant, the Writ Court has disposed of the Writ Petition at the admission stage, especially when there is a title dispute in the subject property and once a building is constructed, the writ petitioner squats over the property with new building and the possibility of making the attempt to keep on dragging the suit.

6.Heard the learned counsel appearing for the appellant and the learned Special Government Pleader appearing for the respondents 2 to 6 and perused the materials placed before this Court.

7.On perusal of the materials available on record, it is seen that earlier the appellant, claiming to be the owner of the property, has filed a Writ



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Petition in W.P(MD)No.5762 of 2024 challenging the decision of the fifth respondent, wherein the appellant wants to demolish the subject building which is said to be 150 years old, however, his request was rejected on the ground that he is not having any title document in his favour. The Writ Court, by 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.”

8.Further, the first respondent/writ petitioner, who is claiming to be in possession of the property, has filed a Writ Petition in W.P(MD)No.15174 of 2024 not to vacate him from the house, wherein the writ Court by 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



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not be taken as positive direction for demolition of the building. It should be 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.”

9. Based on the said order, the authorities 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 writ 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, the writ petitioner has filed the Writ Petition.

10. The only contention raised by the writ petitioner before the writ Court is that he prepared to demolish the house. However, he seeks permission to



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file an application for the reconstruction of a new house.

11.The writ Court, based on the materials available on record, passed the following order:

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.

7.Taking note of the nature of the building and its condition seen from the photographs produced, as it is in very



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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.”

12.In view of the above, we do not find any illegality or irregularity in the order passed by the Writ Court. Accordingly, this Writ Appeal is dismissed. The appellant can work out his remedy in the pending civil suit. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

[J.N.B.,J.] & [S.S.Y.,J.]

05.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
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and
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ORDER MADE IN
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