

W.P.(MD)Nos.30177 of 2024 and 881 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 31.01.2025

PRONOUNCED ON : 28.04.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)Nos.30177 of 2024 and 881 of 2025

and

W.M.P.(MD)Nos.25394, 25395 of 2024 and 549 of 2025

W.P.(MD)No.30177 of 2024

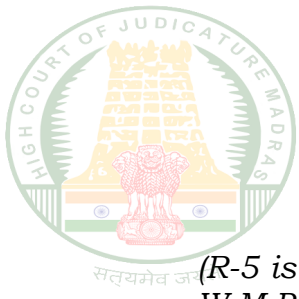
S.Kannan

... Petitioner

Vs.

- 1.The District Collector,
Dindigul District,
Dindigul.
- 2.The Commissioner,
Dindigul Corporation,
Dindigul,
Dindigul District.
- 3.The Tahsildar,
Dindigul West Taluk Office,
Dindigul,
Dindigul District.
- 4.The Inspector of Police,
Dindigul North Police Station,
Dindigul,
Dindigul District.
- 5.K.M.Alagesan

... Respondents



W.P.(MD)Nos.30177 of 2024 and 881 of 2025

(R-5 is impleaded vide Court order dated 09.01.2025 in W.M.P.(MD)No.288 of 2025 in W.P.(MD)No.30177 of 2024)

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned notice issued by the 2nd respondent vide in his proceedings Na.Ka.No. 282/2022/F3 dated 08.12.2024 and quash the same as illegal and arbitrary and consequently direct the 2nd respondent herein do not interfere with the petitioner's peaceful possession and enjoyment of the property in any way with regard to property in Door No. 42/63 and 42/64 situated in T.S.No. 165/3E, North Car Street, Dindigul Town, Dindigul District.

For Petitioner	: Mr.G.Gomathisankar
For R-1 & R-3	: Mr.S.Kameswaran, Government Advocate
For R-2	: Mr.J.Lawrence
For R-4	: Mr.K.Gnanasekaran, Government Advocate (Criminal side)
For R-5	: Mr.P.Mahendran

W.P.(MD)No.881 of 2025

K.M.Alagesan

... Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Dindigul District.



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2.The Commissioner,
Dindigul Corporation,
Main Road, Dindigul - 624 001.

3.The Executive Engineer (Planning),
Town Planning Section,
Dindigul Corporation,
Dindigul - 624 001.

4. S.Kannan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 3 to dismantle the petitioner's dilapidated building situated at Door No. 42/63 and 64 North Car Street, Dindigul Corporation, Dindigul in connection with the proceedings issued by the 2nd respondent vide Na.Ka.No. 282/2022/F3 dated 04.12.2024 and 08.12.2024 in accordance with law within the time stipulated by this Court.

For Petitioner	: Mr.P.Mahendran
For R-1	: Mr.D.S.Neduncheliyan, Government Advocate
For R-2 & R-3	: Mr.J.Lawrence
For R-4	: Mr.G.Gomathisankar

ORDER

W.P.(MD)No.30177 of 2024, this petition is filed seeking to call for the records pertaining to the impugned notice issued by the second



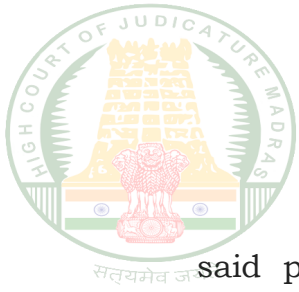
W.P.(MD)Nos.30177 of 2024 and 881 of 2025

respondent in his proceedings bearing Na.Ka.No.282/2022/F3 dated 08.12.2024 and quash the same and consequently direct the second respondent not to interfere with the petitioner's peaceful possession and enjoyment of the property in door No.42/43 and 42/64, situated in T.S.No.165/3, North car street, Dindigul road, Dindigul district.

2. W.P.(MD)No.881 of 2025, this writ petition is filed seeking to direct the respondents 1 to 3 to dismantle the petitioner's dilapidated building situated at door No.42/63 and 64, North car street, Dindigul corporation, Dindigul, in connection with the proceedings issued by the second respondent vide Na.Ka.No.282/2022/F3 dated 04.12.2024 and 18.12.2024.

The factual matrix of W.P.(MD)No.30177 of 2024:

3. The property in Dindigul road, old T.S.No.165/3 and new T.S.No.165/3, and door No.42/63 and 42/64, and other properties are the ancestral properties of one R.S.V.Govindarajalu, who was in possession and enjoyment of the same during his lifetime. After the demise of the said Govindarajalu, the property was inherited by his legal heirs, namely, Subbaiah and Yasothaiammal, who were enjoying the same commonly till 1945 and later the same was partitioned on 16.09.1945 between the said Subbaiah and Yasothaiammal and the

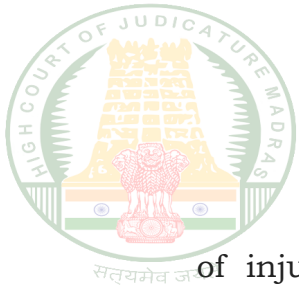


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said property and others were allotted to the said Subbaiah as B schedule property and other property were allotted to his mother as A schedule property.

4. The said property was rented out by the said Subbaiah to the petitioner in the year 1999 under the oral rental agreement since the petitioner was engaged in a business in the name and style of “Kanni Merchant” and was paying rent regularly to the said Subbaiah without any dispute. The petitioner has been running his business, paying commercial tax to the second respondent since then. After the demise of Subbaiah on 19.03.2006, his legal heir, namely, Chandrasekara Rajalu, inherited the said property, and the petitioner continued to be the tenant of the said property, paying rent to the said Chandrasekara Rajalu, for which a rental agreement was executed between the petitioner and Chandrasekara Rajalu on 12.04.2013.

5. In the meanwhile, the said Chandrasekara Rajalu sold the property on 16.02.2023 to one Alagesan, who is the fifth respondent herein and on purchasing the same Alagesan insisted the petitioner to vacate the property and hand over the possession of the same to him without following any due process of law for evicting the petitioner. Hence, the petitioner filed a civil suit in O.S.No.286 of 2023 for a relief



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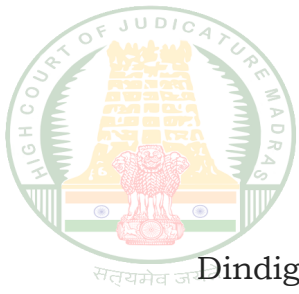
of injunction on the file of the District Munsif Court, Dindigul, to restrain the fifth defendant from evicting the petitioner from the suit property without following due process of law.

6. Though the building situated in T.S.No.165/3 in door No. 42/63 and 42/64 is strong and in good condition and the same is not in a dilapidated condition, the second respondent had issued a notice under section 166(1), 166(3) and 166(4) of the Tamil Nadu Urban Local Bodies Act, 1998, on 08.12.2024, directing the petitioner to vacate the premises within a period of 15 days vide the impugned proceedings. Challenging the same, this writ petition in W.P.(MD)No.30177 of 2024 is filed.

7. Vice versa, the fifth respondent owner of the subject property in W.P.(MD)No.30177 of 2024 filed W.P.(MD)No.881 of 2025 before this Court.

The gist of the case in W.P.(MD)No.881 of 2025:

8. The petitioner had purchased the scheduled properties in T.S.No.165/3 part Katcheri street, Dindigul town, Dindigul, T.S.No. 165/3 H, Katcheri street, Dindigul town, Dindigul, T.S.No.165/3 part now new T.S.No.165/E, situated at North car street, Dindigul town,

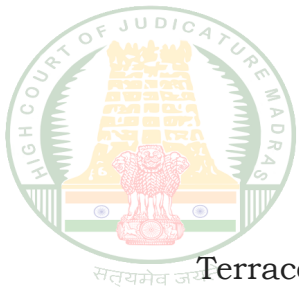


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Dindigul, and T.S.No.165/3 F Katcheri street, Dindigul Town, Dindigul, vide document No.1164 of 2023 of Dindigul Sub Registry on 16.02.2023 from one Chandrasekara Rajalu, S/o.Subbiah. Since then the petitioner is in possession and enjoyment of the same, and all the revenue records have also mutated in favour of the writ petitioner.

9. So far as the subject matter of the petition-mentioned property is concerned, the same is pertaining to the property comprising in old T.S.No.165/3 part new T.S.No.165/E, situated at North car street, Dindigul town, Dindigul, and the same was assessed property tax vide assessment No.078/012/00246, old assessment No.078/19266, 078/012/00247, 078/19267, having door No.42/64 and 64 respectively. It is pointed out that the said building is a Madras Terraced Roof building, and the same is a 70-year-old building. The said building measuring an extent of 1680 square feet, that is, equal to 156.08 square meters, had been in the occupation of Kanthasamy and Kannan, that is, the fourth respondent in W.P.(MD)No.881 of 2025 and writ petitioner in 30177 of 2024, before that, one K.M.Alagesan had purchased it.

10. However, as on date, it is only Kannan who is in occupation of the said building. Since the subject matter of the building is a Madras



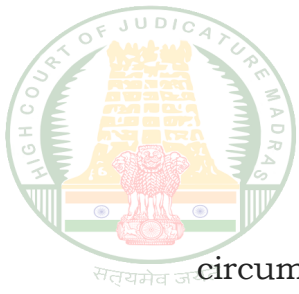
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Terraced Roof building, the same is completely ruined and the same is in a dilapidated condition exceeding the normal life of a Madras Terraced Roof building and the structures and masonry wall and floors are also in a very bad condition in such a way that the structure is not fit for use and it is unsafe for the occupants as well as the passers-by.

11. The second respondent, that is, the Commissioner, Dindigul Corporation, on knowing the condition of the said building issued a notice dated 07.08.2023 under Section 136 of Tamil Nadu Urban Local Bodies Act, 1998, addressing to the petitioner stating that the said building is completely ruined and the same should be immediately demolished and dismantled. After receipt of the said notice, the petitioner personally approached the second respondent and explained that the said two tenants, namely, Kanthasamy and Kannan, are refusing to vacate the said building, evading the petitioner's request.

12. It is only under such circumstances, the second respondent Commissioner issued a notice dated 12.12.2023 under Section 136 of the Tamil Nadu Urban Local Bodies Act, 1998, not only to the petitioner but also to the tenants and demanded all of them together to vacate the said premises and also to demolish the same. Under such

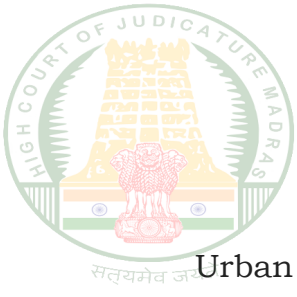


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circumstances one of the tenants, namely, Kanthasamy, has vacated the said building and handed over the keys to the writ petitioner. However, the fourth respondent, Kannan, has not vacated the same, despite the notice issued by the second respondent. Hence, this writ petition.

13. The learned counsel for the fifth respondent, Mr.P.Mahendran, categorically submitted that, section 136 of Tamil Nadu Urban Local Bodies Act, 1998, empowers the second respondent to take necessary steps to remove dangerous buildings in the jurisdiction of the second respondent and only on identifying that the building belonging to the writ petitioner occupied by the fourth respondent is in a dilapidated and dangerous condition, the notice dated 12.12.2023 has been issued under Section 136 of the Tamil Nadu Urban Local Bodies Act, 1998, by the second respondent.

14. Per contra, the learned counsel for the fourth respondent Mr.Gomathishankar, categorically submitted that when the civil suit not to evict the said Kannan except in accordance with due process of law in O.S.No.286 of 2023, on the file of the District Munsif Court, Dindigul, is pending, the second respondent is not justified in issuing such a notice invoking the power under Section 136 of the Tamil Nadu



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Urban Local Bodies Act, 1998.

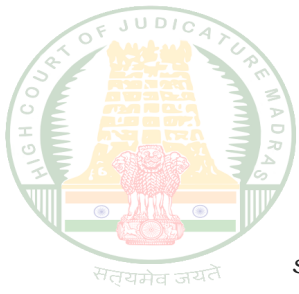
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15. The Honourable Division Bench of this Court to which I am a party has dealt with a similar case in W.P.(MD)No.6522 of 2023 and the relevant portion of the same is extracted as follows:

“3.The contention of the petitioner is that his tenants, at least 6 in number, had filed writ petitions in W.P(MD)Nos.17863 to 17868 of 2017 challenging the said notice. This Court by order dated 20.09.2017, has disposed of the said writ petitions with the following observations:-

“3.Considering the same, without going into the merits of the case, this Court permits the petitioners to give further reply, it so advised, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the respondents 1 and 2 shall consider the same and pass orders on merits and in accordance with law. In the event of any adverse orders being passed against the petitioners, pursuant to the impugned provisional orders, the same shall not be given effect to within two weeks from the date of that order, so as to enable them to work out their remedy in the manner known to law.”

4.It is now the turn of the petitioner to approach this Court



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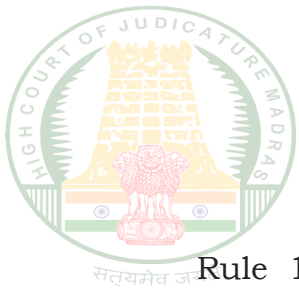
seeking a Mandamus as above stated.

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5.To exercise or not to exercise the power under Section 296 is within the domain of the Corporation. The petitioner cannot seek the aid of this provision to evict his tenants. We cannot issue such a Mandamus, which will be in conflict with the rights of the tenants, who are occupation of the building.”

16. In the instant cases, no doubt the building belongs to one K.M.Alagesan, and S.Kannan, is the tenant who is occupying the building. It is needless to state that only on identifying that the building is in a dilapidated condition, the second respondent has ceased of the matter and has issued an impugned notice invoking Section 136 of the Tamil Nadu Urban Local Bodies Act,1998. Under such circumstances, considering the fact that the building is in a serious dilapidated condition, and is posing serious threat to the occupiers as well as the by-passers thereby, it is the bounden duty of the tenant to vacate the petition subject property with immediate effect.

17. However, the owner of the building cannot seek this Court to direct the official respondents to invoke the power under Section 136 of the Tamil Nadu Urban Local Bodies Act, 1998, to demolish the aforesaid building in the absence of having paid the necessary charges under



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Rule 12(c) of the Tamil Nadu Combined Development and Building Rules, 2019. Once the case of a dilapidated building is ceased by the corporation authorities by invoking the powers under section 136 of the Tamil Nadu Urban Local Bodies Act, 1998, the tenants residing therein are bound to comply the directions of the authorities concerned and vacate the premises forthwith.

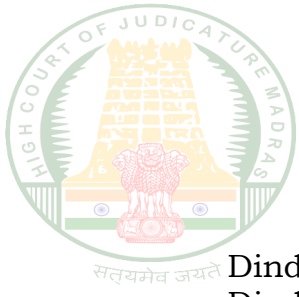
18. Accordingly, both the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

28.04.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

- 1.The District Collector,
Dindigul District,
Dindigul.
- 2.The Commissioner,
Dindigul Corporation,
Dindigul,
Dindigul District.
- 3.The Tahsildar,
Dindigul West Taluk Office,



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Dindigul,
Dindigul District.

4.The Inspector of Police,
Dindigul North Police Station,
Dindigul,
Dindigul District.



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L.VICTORIA GOWRI, J.,

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