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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2026

CORAM

THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

W.P.No.30277 of 2025
and
W.M.P.Nos.33967 and 33968 of 2025

Dr.Annamalai Alagappan ... Petitioner

Vs

1. The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai – 600 003.

2. The Zonal Officer,
Greater Chennai Corporation,
Zone-5(Royapuram), Div – 61, Unit-14.
No.9, Chidambaram 7th street,
Basin Bridge, Chidambaram Nagar,
Chennai – 600 001.

3. The Assistant Engineer,
Greater Chennai Corporation,
Div-61, Unit-14, Zone-5 (Royapuram),
No.1 Boopathy Nagar,
Egmore, Chennai – 600 008.

4. I.S.Ismail Basha

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5. R.M.Ganesan
S/o.Late Muthusamy, No.9, Periyanaga Poondi,
Pallipat Taluk, Thiruvallur District, At present at
112, EVR Road, Kilpauk, Chennai – 600 084.
(R5 impleaded vide order dated 10.12.2025 made in
WMP.No.33819 of 2025 in W.P.No.30277 of 2025) ... Respondents

Writ Petition filed under Article 227 of the Constitution of India for issuance of a writ of Certiorarified Mandamus calling for the records comprised in the proceedings of respondents 1 and 2 in proceedings bearing No.Z.O.V.C.No.8627 of 2025 dated 23.07.2025 and quash the same and consequently issue a direction to the respondents not in any manner disturb the peaceful possession and enjoyment of the property belonging to the petitioner in door No.112, Poonamallee High Road, Periyar EVR Salai, Chennai – 600 084 and also bearing Old No.63, New No.128, Gengu Reddy Road, Egmore, Chennai – 600 008 by restraining them from taking any coercive action concerning the demolition / eviction of the petitioner or the occupants (9 Shops) of the property including dispossession of the same.

For Petitioners — Mr.Alagu Swaminathan

For Respondents — Mr.M.Sureshkumar, AAG for Mr.S.Gopinathan for R1 to R3

No appearance (R4)

Mr.S.M.Loganathan for Mr.G.Saravanakumar for R5

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O R D E R

The writ petitioner challenges the order of demolition that had been passed by the first respondent on 23.07.2025. Initially, only one of the occupiers of the building situated in door No.128, Gengu Reddy Road, Egmore, Chennai – 600 008 had been impleaded as the fourth respondent. Pending the writ petition, the purchaser of the property filed an application to implead. He was impleaded as the fifth respondent to the writ petition. The petitioner being a senior citizen, and since the writ petition revolves around on a narrow compass, with the consent of the counsel on either side, the main writ petition itself was taken up for disposal.

2. There is no dispute that the property originally belonged to one Dr.AL.Annamalai. The petitioner claims to be the son of the said Dr.AL.Annamalai. The fifth respondent, purchaser of the subject property, states that the said Dr.AL.Annamalai had given the property to one Dr.Ruth Annamalai and he had purchased the property from her. The right of Dr.Ruth Annamalai to alienate the property and her right, title, and interest over the said property is a subject matter of the dispute in C.S.No.309 of 2003 on the file of this Court.

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3. Certain facts have to be set forth before the discussion goes into the merits of the impugned order. Dr.Ruth Annamalai, claiming that Dr.AL.Annamalai had executed a "WILL" in her favour on 21.04.1980, had presented O.P.No.197 of 1988 for issuance of letters of administration. In the said proceeding, the writ petitioner herein was arrayed as the second respondent. The wife of Dr.AL.Annamalai, Tmt.AN.Valliammai Achi had been arrayed as the first respondent. Objecting to the letters of administration on the basis of the Will, the said AN.Valliammai Achi and the writ petitioner initiated a caveat. This Court accepted the objection and converted O.P.No.197 of 1988 into a contentious testamentary proceeding. The said proceeding was numbered as TOS.No.15 of 1989. After a hot contest between the parties, this Court, dismissed TOS.No.15 of 1989 by way of a judgment and decree dated 11.02.2000. This decree has become final.

4. Thereafter, since Dr.Ruth Annamalai was in possession of the property, the writ petitioner presented a suit for recovery of possession in C.S.No.309 of 2003. This suit, on account of enhancement of pecuniary jurisdiction of the City Civil Court, was transferred and re-numbered as O.S.No.6218 of 2023 on the file of XXII Additional City Civil Court, Chennai. The suit is said to be pending

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in the stage of trial. While the suit was still pending before this Court in its original avatar of C.S.No.309 of 2003, the writ petitioner feared that Dr.Ruth Annamalai might demolish the suit property and put up a new superstructure. Hence, he presented O.S.No.4423 of 2007, seeking a relief of permanent injunction restraining the said Dr.Ruth Annamalai and any persons claiming through or under her from, in any manner demolishing or putting up a fresh superstructure over the same. This suit was also contested by Dr.Ruth Annamalai. By a judgment and decree dated 18.04.2009, the suit in O.S.No.4423 of 2007 came to be decreed as prayed for. This decree too, is said to have become final.

5. Pending the suit in CS.No.309 of 2003 [OS.No.6218 of 2023], Dr.Ruth Annamalai alienated the property in favour of the fifth respondent herein, by way of a registered sale dated 29.03.2012, which has been registered on the file of Sub Registrar at Periamet. The fifth respondent claims that he is a bonafide purchaser of value without due notice of the pendency of the suit.

6. The fifth respondent had inspected the property and came to a conclusion that the building is in a dilapidated state and requires to be

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demolished immediately. Hence, he sent a representation dated 05.03.2025, to the Commissioner, Greater Chennai Corporation, seeking immediate action considering the nature of the building. Thereafter, he filed a writ petition in W.P.No.8627 of 2025 for a mandamus to consider his representation dated 05.03.2025.

7. This Court, by an order dated 12.03.2025, directed the first respondent to conduct a detailed enquiry after giving due notice to the petitioner therein and pass appropriate orders on merits within a period of eight weeks from the date of receipt of a copy of that order.

8. Acting on the order of this Court, the Executive Engineer, Zone V, Chennai – 600 021, issued a notice for enquiry to the fifth respondent. After the enquiry was concluded, a note was put up to the first respondent calling upon him to exercise the powers under Section 136 of the Tamil Nadu Urban Local Bodies Act of 1998 (in short 'the Act'). The first respondent, on the basis of the enquiry and the note file put up for his consideration, passed the impugned order holding that the building is in a ruinous state/ dangerous condition endangering the occupiers / passers-by and public. It is this order which is impugned in this

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writ petition.

9. It is the submission of Mr.Alagu Swaminathan, appearing for the petitioner, that when there is a decree of the Civil Court, and when a suit is pending in O.S.No.6218 of 2023, the first respondent ought not to have passed the impugned order. He further submits that as many as eleven commercial establishments are in occupation of the premises and if the impugned order is given effect to, it will affect the livelihood of the occupants. More fundamentally, he urges that prior to the passing of the impugned order, no enquiry or show cause notice had been issued to the petitioner or to the occupants and hence, the order is violative of principles of natural justice.

10. Per contra, Mr.M.Suresh Kumar, learned Additional Advocate General representing Mr.S.Gopinathan for respondents 1 to 3 states that the impugned order came to be passed in implicit obedience to the orders passed by this Court in W.P.No.8627 of 2025. He states a notice had been issued to all the occupiers and to the fifth respondent herein, and only thereafter, the first respondent came to the conclusion that the building requires to be demolished.

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11. Mr.S.M.Loganathan, appearing for Mr.G.Saravanakumar for the fifth respondent states that he is a bonafide purchaser for value without due notice. He added that the property, which is a subject matter of the writ petition, is not confined only to the eleven commercial establishments as pleaded by the petitioner, but has a residential building which was in occupation of Dr.Ruth Annamalai, and which is now vacant. He adds that the entire building has lost its structural value, and is in such a dangerous condition that if it is permitted to continue to stand, it will not only endanger the lives of the occupants, but might also result in affecting those who are using the Gengu Reddy road. He states that the impugned order passed in terms of the earlier order passed by this Court in W.P.No.8627 of 2025 does not require any interference and that the same must be confirmed.

12. I have carefully considered the submissions of both sides and gone through the records.

13. It is not in dispute that the fifth respondent's vendor, Dr.Ruth Annamalai, not only lost the proceedings that she had initiated in TOS.No.15 of 1989, but also the proceedings in O.S.No.4423 of 2007. The fifth respondent,

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being a purchaser of the property from the said Dr.Ruth Annamalai, would be a person bound by the judgment and decree passed in O.S.No.4423 of 2007, as well as, TOS.No.15 of 1989. In addition, when O.S.No.6218 of 2023 is pending from 2003, any alienation made by Dr.Ruth Annamalai in favour of any person, including the fifth respondent, would immediately invite the application of Section 52 of Transfer of Property Act, 1882.

14. Right from the time when the position of law was settled by the Court of appeal in the case of ***Bellamy V. Sabine*** reported in ***(1857) 1 De G & J 566*** a purchaser of the property pending in the litigation would be bound by any decree that is passed in the proceedings against his or her vendor. The doctrine has been further refined to hold that the alienation in itself is not bad or void, but would be subject to the result of the suit or proceedings pending. If that be the position, the fifth respondent, while being a legal representative of the deceased Dr.Ruth Annamalai would be bound not only by the decrees already passed, but would also be bound by any decree that might be passed in O.S.No.6218 of 2023 on the file of the XXII Additional City Civil Court, Chennai.

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15. The mere fact that a suit is pending and a decree has been passed against Dr.Ruth Annamalai does not mean that the first respondent is not entitled to exercise the power of Section 136 of the Act. If a building is in a ruinous or dangerous condition, it is the statutory duty of the first respondent to act in such a manner so as to protect the occupiers, or as contended by Mr.S.M.Loganathan, the passers-by and the public. While exercising the power under Section 136 of the Act, the first respondent is called upon to issue notice to the owner or occupier of the building. As the issue of ownership is still pending before the civil Court, the first respondent ought not to have confined the enquiry to the fifth respondent alone.

16. A perusal of the typed set of papers filed by the petitioner shows that soon after the notice was issued to the occupiers, they had given a representation to the Commissioner on 28.07.2025 and the same had been acknowledged by the first respondent’s office. In addition, the petitioner also claims to have informed the first respondent by way of representation dated 28.03.2025, and sent a reminder dated 14.07.2025. Had the writ petitioner not informed about his claim over the property, the first respondent cannot be found fault with for having

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heard the fifth respondent alone. However, when it is brought to the notice of the statutory authority that the writ petitioner is also staking a claim in the property, the first respondent ought to have heard the writ petitioner also.

17. Apart from the violation of principles of natural justice, a perusal of the impugned order shows that the first respondent has not come to a categorical conclusion whether the building is in a ruinous condition or dangerous or unfit for habitation or over-crowding. The order shows that the first respondent has stated that the building is in *a ruinous state / dangerous condition endangering the occupiers / passers-by*. There is no reference in the impugned order as to how the first respondent came to the said conclusion. Furthermore, under Section 136 of the act, when an order is passed under Section 136(1) of the Act and when it is not complied, only then, the Commissioner gets the authority to pass an order under Sections 136(3) and (4) of the Act.

18. The impugned order shows that it has been passed under Sections 136(1) and (3) of the Act simultaneously. Section 136(3) of the Act would apply, only when the owner or occupier of the building does not comply with an order already passed. It does not enable the Commissioner to pass an order where two

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orders are rolled into one, as has been done, in the present case. The reason for Section 136(1) of the Act preceding 136(3) of the Act is not too far to see. When an order is passed under Section 136(1) of the Act, if the owner or occupier feels that the building is not in a situation which attracts any of the condition prescribed under Section 136(1) of the Act, he would have the right to challenge the same in a manner known to law. If Sections 136(1) and 136(3) of the Act are telescoped into one another and a combined order is passed, then an owner or occupier would not even be in a position to challenge the order passed under Section 136(1) of the Act, and even if the building does not attract the provisions of Section 136(1) of the Act. There is an imminent possibility of the owner or the occupier losing the roof over their head. It was only on this reason that the Legislature had called upon the Commissioner to exercise the power under Section 136(1) of the Act and thereafter, proceed under Section 136(3) of the Act, if the owner or an occupier fails to comply with the former.

19. In the present case, the first paragraph of the impugned order shows that the Commissioner had come to the conclusion that the building is in a ruinous state. The second paragraph of the order shows that, he has granted thirty days time, and, immediately, he has passed an order in the third paragraph

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stating that the building will be pulled down by him and the cost will be recovered from the owner or occupier. The basis on which the first respondent has come to the conclusion that the building is in ruinous state / dangerous condition endangering the occupiers has also not been disclosed.

20. It has been settled by the Supreme Court, atleast from 1967, that any authority, be it administrative, quasi-judicial or judicial should afford reasons prior to passing an order affecting the parties ***(see, Bhagat Raja v. Union of India AIR (1967) SC 1606)***. It has also been repeatedly held that reasons for an order is the heartbeat of the order and in case, the order is bereft of reasons that order cannot be treated but as a stillborn one ***(see, Basudev Datta v. State of West Bengal & Ors. 2024 INSC 940)***. A perusal of the impugned order shows that it is bristling with the aforesaid vices of administrative bias and hence, necessarily, it would have to be quashed by this Court. Accordingly, the same is quashed.

21. Mere quashing of the order would not suffice in the present case, as Mr.S.M.Loganathan pleads that the building is absolutely ruinous and should not be permitted to stand even for a moment.

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22. This Court, exercising Article 226 of the Constitution of India cannot embark on such an enquiry. When a statute has vested the power with one particular authority, it must be exercised by that particular authority and none else. Hence, keeping in mind the order passed by this Court in W.P.No.8627 of 2025, this Court passes the following order.

(i) The order impugned in the writ petition is quashed.

(ii) The proceeding stand restored on to the file of the first respondent.

(iii) The first respondent shall issue notice to the writ petitioner, the fifth respondent, and all the occupiers in the building.

(iv) The first respondent shall cause an enquiry and obtain a report, if necessary, from a Structural Engineer and thereafter, hear all the parties set forth above, and shall pass a reasoned and detailed order setting forth the grounds on which he is reaching a conclusion.

23. The order has been passed in the presence of Mr.C.Vijayababu, Assistant Commissioner, Zone V, Royapuram. He shall ensure compliance with the aforesaid order.

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24. Accordingly, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions stands closed.

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Index : Yes/No
Neutral Citation : Yes/No

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V.LAKSHMINARAYANAN, J.

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