



WP(MD)No.9636 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.9636 of 2022
and
WMP(MD)No.6913 of 2022

Balamurugan

... Petitioner

v.

- 1.The District Collector,
Sivagangai District,
Sivagangai.
- 2.The Tahsildar,
Karaikudi Taluk,
Sivagangai District.
- 3.The General Manager,
Tamil Nadu Co-operative Milk Producers Federation Ltd.,
Kalanivasal,
Karaikudi Taluk,
Sivagangai District.
- 4.The Block Development Officer,
Sankarapuram Panchayat,
Sivagangai District.



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5. The Village Administrative Officer,
Kalanivasal Village,
Karaikudi,
Sivagangai District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus forbearing the respondents 2 & 5 from interfering into the petitioner's business and from dispossessing the petitioner's Aavin retail parlour situated near the New Sub-Registrar Office at Karaikudi till the completion of his license period.

For Petitioner : No appearance

For Respondents : Mr.P.T.Thiraviam,
Government Advocate
for R.1, R.2, R.4, R.5

Mr.T.Muthukarnam,
Standing Counsel
for R.3

ORDER

The case of the petitioner is that he has been allotted with a retail Aavin Parlour near the New Sub-Registrar Office at Karaikudi. However, even



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before the completion of the license period, the respondents are attempting to dispossess him. Therefore, the petitioner has submitted a representation before the Tahsildar not to evict him from the road margin, where he has been allotted with the Aavin shop and has filed this writ petition.

2. There is no representation for the petitioner.

3. Learned Government Advocate, on instructions, submitted that the petitioner has put up the shop in the land, which has been allotted for constructing a memorial house for Kaviyarasar Mudiyaarasana. In view of the shop which is in existence, the respondents are not in a position to proceed with the memorial house work.

4. Admittedly, the place in which the petitioner has put up the shop is at the road margin. The Hon'ble Supreme Court, time and again, reiterated that footpaths or pavements are public properties which are intended to serve the convenience of the general public. They are not laid for private use and in fact, their use for a private purpose frustrates the very object of its existence.



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The margins of the road and streets are meant for the common use of the pedestrians. However, with the connivance of some officers, permissions are granted to put up shops on these margins, leaving the general public to walk on the roads, leading to causing inconvenience to the pedestrians as well as commuters on the road and leads to tragic accidents.

5.As per Section 26(2) of the Tamil Nadu Highways Act 2001, the State Highways Department is empowered to grant licence to put up a temporary structure with the concurrence of the District Collector concerned, after obtaining a no objection from the concerned Police Station as to whether this would cause any nuisance to the public and the traffic in that area.

6.Though the petitioner claims that he has been permitted to put up the shop in the road margin, he has not produced any documents to substantiate that the Highways Department has actually granted any permission. In the absence of any such material, this Court is not inclined to entertain this writ petition and the same is accordingly, dismissed.



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There shall be no order as to costs. Consequently, connected

miscellaneous petition is closed.

Index : Yes / No
NCC : Yes / No
Internet : Yes
gk

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B.PUGALENDHI, J.

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