

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2015

Coram

THE HON'BLE Mr.JUSTICE M.M.SUNDRESH

W.P.No.21071 of 2015 &
M.P.Nos. 1 to 3 of 2015

D.Anbalagan

[PETITIONER]

Vs

1 The Registrar
Indian Institute of Technology Madras (IIT)
Chennai 600 036.

2 The Deputy Registrar
Indian Institute of
Technology Madras (IIT)
Chennai 600 036.

[RESPONDENTS]

Prayer :-Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus, to call for the records relevant to the order in No. F/Admn.III/ES/Vacate/2015/308 dated 8.7.2015 passed by the 2nd respondent and quash the same as illegal improper against the natural justice and thereby direct the respondents to extend the license period to the petitioner for running two wheeler mechanic shop situated at No.25 Shopping Centre Quarters Zone IIT Madras Chennai 600 036, in the rental premises of the respondents department by receiving the license fee.

For petitioner .. Mr.M.V.Muralidaran

For Respondents .. Mr.Menon Karthik Mukundan
Spl.Govt. Pleader

O R D E R

The petitioner was a licensee of the respondent Institute. Seeking reconstruction/renovation, a notice was issued as per clause 8 of the Lease Agreement to the petitioner to vacate Shop No.25. The petitioner gave a reply for alternate accommodation, which was rejected. Thereafter, the petitioner filed a Suit on

the file of II Assistant Judge, City Civil Court, Chennai in O.S.No.3776 of 2015. Unfortunately, he could not get any interim order. Consequently, a further order was passed on 08.07.2015, which is impugned in this Writ Petition, calling upon the petitioner to vacate the shop No.25 on or before 30.06.2015 and handover the possession to EE(C), failing which necessary action would be taken. Challenging the same, the present Writ Petition has been filed.

2.The learned counsel appearing for the petitioner submitted that for some similarly placed persons like that of the petitioner, accommodations have been given on temporary basis, however, the petitioner has been discriminated.

3.The learned counsel for the respondents submitted that the said request cannot be considered and admittedly there is no vacancy available to accommodate the petitioner and also submitted that as the building is in dilapidated condition, they are taking steps to reconstruct the building.

4.Admittedly, a notice has been issued to the petitioner as per the Licence Agreement. Thus, the petitioner cannot have any ground in the eye of law. Further, the petitioner also cannot seeks for any indulgence to accommodate him elsewhere as a matter of right and when it is the specific case of the respondents that that there is no place to accommodate the petitioner, this Court cannot pass any order in favour of the petitioner. The petitioner has also failed to get appropriate order before the Civil Court. The cause of action in the Civil Case and the present Writ Petition are one and same though on a different proceedings. In other words, the issue being the same, the petitioner ought not to have invoked the jurisdiction of this Court, that too, after seeking a remedy before the competent Court.

5.Thus, this Court has no reason to interfere with the order impugned in this Writ Petition. However, considering the facts and circumstances of the case, more particularly the petitioner has been in possession and enjoyment of the Shop for a long time and due to ensuing Deepawali festival, the petitioner is granted time till 31.12.2015 to vacate and hand over possession to the respondents, subject to payment of rents as per law. It is made clear that this order will not stand in the way of considering the entitlement of the petitioner in the new premises to be constructed.

The Writ Petition stands dismissed on the above terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rpa

To

- 1 The Registrar
Indian Institute of Technology Madras (IIT)
Chennai 600 036.
- 2 The Deputy Registrar
Indian Institute of Technology Madras (IIT)
Chennai 600 036.

+1cc to Mr.V. Muralidaran, Advocate, S.R.No.59427

SAI (CO)
EU(17/11/2015)

W.P.No.21071 of 2015

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