

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2015

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

W.P.No.27205 of 2015

and

M.P.Nos.1 & 2 of 2015

and

W.P.Nos.27734 to 27743 of 2015

and

M.P.Nos.1,2 and 3 of 2015

M.Gopalakrishnan ...Petitioner in W.P.No.27205 of 2015
P.R.Anandhavel ...Petitioner in W.P.No.27734 of 2015
S.Manikandan ...Petitioner in W.P.No.27735 of 2015
K.Ravi ...Petitioner in W.P.No.27736 of 2015
M.Amaanulla ...Petitioner in W.P.No.27737 of 2015
P.V.Subbaiyan ...Petitioner in W.P.No.27738 of 2015
K.Krishnasamy ...Petitioner in W.P.No.27739 of 2015
N.Murugesan ...Petitioner in W.P.No.27740 of 2015
A.Murugan ...Petitioner in W.P.No.27741 of 2015
K.Karthick ...Petitioner in W.P.No.27742 of 2015
K.V.Gnanavadivel ...Petitioner in W.P.No.27743 of 2015

Vs.

The Commissioner,
Punjai Puliampatti Municipality,
Punjaipuliampatti,
Erood District - 638 459.

...Respondent in all writ petitions

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Prayer in all writ petitions: Writ Petitions filed under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus calling for the records of order in Na.Ka.No.1062/2015/A-1 dated 24.08.2015 on the file of respondent herein and quash the same and consequently forefearing the respondent from in any manner indulging into threatening activities without removing the illegal shops functioning in and around in the New Bus Stand in the Punjai Puliyampatti Municipality.

For Petitioners : Mr.N.Ponraj
(in all writ petitions)

For Respondent : Mr.AS.Thambusamy
(in all writ petitions)

COMMON ORDER

The petitioners have approached this Court seeking a Writ of certiorarified Mandamus calling for the records of order in Na.Ka.No.1062/2015/A-1 dated 24.08.2015 on the file of respondent herein and quash the same and consequently forefearing the respondent from in any manner indulging into threatening activities without removing the illegal shops functioning in and around in the New Bus Stand in the Punjai Puliyampatti Municipality.

2. The petitioners are successful bidders for the respective shops in the New Bus Stand, belonging to the respondent Municipality. The auction was conducted by the respondent on 02.09.2014. The petitioners have deposited 12 months rent as advance and they are waiting for taking possession. The shops were ready in August, 2015. The respondent municipality allowed the third parties to put up shops and bunks in and around the bus stand without conducting any auction. Therefore, the petitioners formed a Sangam and gave a representation dated 12.06.2015 to remove the shops illegally established. On 10.08.2015, the respondent passed an order directing the petitioners to take possession of the shops after executing necessary documents. Again on 17.08.2015, the petitioners gave representation to remove the shops illegally established and provide basic amenities such as Toilets etc. Therefore, the respondent gave oral assurance to provide basic amenities. However, on 24.08.2015, the respondent passed the impugned order directing the petitioners to take possession within three days from the date of receipt of notice and

without considering the petitioners request to remove the shops illegally established. The said impugned order has been challenged in these writ petitions.

3. Heard Mr.N.Ponraj, the learned counsel appearing for the petitioners and Mr.AS.Thambusamy, the learned counsel appearing for the respondent.

4. The learned counsel appearing for the petitioners would submit that some third parties have encroached upon the shops and pursuant to the observation made by this Court, the encroachment have been removed on 31.08.2015. Moreover, only urinal has been provided and no toilet facility has been given. However, the said contention is repudiated by the learned counsel appearing for the respondent by producing photographs, which shows that the public lavatory is available in the Bus Stand. That apart, in paragraph 4 of the counter affidavit, it has been specifically stated that the encroachments have been removed on 31.08.2015. Therefore, there cannot be any prohibition for the petitioners to occupy the shops. According to the learned counsel for the respondent, the petitioner in W.P.No.27737 of 2015 has already occupied the shop and running his business.

5. Since almost all the facilities agreed to be given by the respondent are provided and the encroachments have already been removed, the petitioners are directed to take possession of the respective shop. However, with regard to the payment of monthly rent, the learned counsel appearing for the respondent submits that the payment of rent is to commence from 15.08.2015. On the other hand, Mr.N.Ponraj, the learned counsel appearing for the petitioners would point out that the petitioners have not occupied the shops till date. Therefore, Mr.AS.Thambusamy, the learned counsel for the respondent on instructions would submit that since the encroachments have been removed on 31.08.2015, the petitioners may pay the rents to the respondent Municipality commencing from 01.09.2015. As Mr.N.Ponraj, the learned counsel for the petitioners submit that the commencement of lease is from 15.09.2015 and the possession is to be taken only from this week, it is appropriate to direct the respondent to collect the rent from the period commencing from 15.09.2015. Since the main contention of the petitioners are that the Bus stand was encroached by powerful politicians, it was not be possible for them to do business well, it is bounden duty of the respondent to see that the encroachments are not made inside the bus stand. The respondent shall collect the monthly rent commencing from 15.09.2015 taking it as the commencement of lease for all the shop owners,

except the persons who have already occupied.

6. In view of the above directions, the Writ Petitions are disposed of. Consequently, connected M.Ps. are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

The Commissioner,
Punjai Puliampatti Municipality,
Punjaipuliampatti,
Erood District - 638 459.

1 CC to Mr.N.Ponraj, Advocate SR.No. 51957

1 CC to Mr.AS.Thambusamy, Advocate SR.No. 51768

W.P.Nos.27205 and 27734 to
27743 & 27743 of 2015

AD (CO)
PSI (09.10.2015)

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