



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Dated: 04.10.2016

Coram

WEB COPY

THE HON'BLE MR.JUSTICE **V.BHARATHIDASAN**

Writ Petition (MD)No.17067 of 2016

G.Gnanasekaran

. . .Petitioner

-Vs-

- 1.The Joint Commissioner,
The Hindu Religious and Charitable Endowment,
Madurai.
 - 2.The Commissioner,
Madurai Corporation,
Madurai.
 - 3.The Chairman Cum Administrative Director,
Tamil Nadu Tea Plantation Corporation
Regional Office,
TANTEA Complex,
Kunoor, Nilagiri.
 - 4.The Joint Commissioner/Executive Officer,
Arulmighu Meenakshi Sundareswarar Devasthanam,
Madurai. . . . Respondents
- (R-4 is suo motu impleaded vide court order dated 27.09.2016
in W.P.(MD).No.17067 of 2016)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to install the Bunk shop forthwith in the Anupanadi Road, from where it was removed as well as direct the 1st Respondent to pay Rs.5,00,000/- as compensation to the petitioner for causing hindrance to carryout his lawful business by removing the stall within the time stipulated by this Hon'ble Court.

For petitioner
For respondents

:Mr.S.Poorna Chandran
:Mr.V.Muruganandham
Additional Govt. Pleader for RR-1 &R 3
Mr.R.Murali for R-2
Mr.S.Manohar for R-4- for
impleaded party

ORDER

The petitioner has filed this writ petition to install the Bunk shop forthwith in the Anupanadi Road, from where it was removed as well as to direct the 1st respondent to pay Rs.5,00,000/- as compensation to the petitioner for causing

hindrance to carryout his lawful business by removing the stall within the time fixed by this Court.

2. According to the petitioner, he is a dealer of the third respondent/Tamil Nadu Tea Plantation Corporation for selling tea, and the second respondent/Madurai Corporation, by proceedings dated 28.07.2016, granted permission to the petitioner to put up a bunk shop in Anupanadi road margin near Vandiyur, Teppakulam on a monthly rent of Rs.2,500/-. He has also deposited a sum of Rs.1,00,000/- as earnest money deposit and after getting permission, the petitioner had installed a bunk shop and also proposed to start the sales on 06.09.2016. On that day, the first respondent, without any notice to him, removed the bunk shop. The petitioner has spent about Rs.1,50,000/- to install the bunk shop and also stocked tea products worth about Rs.50,000/-. It was also removed by the first respondent.

3. The learned counsel appearing for the first respondent submitted that the land belongs to the Arulmighu Meenakshi Sundareswarar Devasthanam, hence the Joint Commissioner/Executive Officer of the Devasthanam has been *suo motu* impleaded as the fourth respondent in this writ petition, as per the order of this Court dated 27.09.2016.

4. The fourth respondent has filed a counter affidavit stating that he has filed various suits before the Civil Court, against the second respondent Corporation, particularly a suit in O.S.No.971 of 2002 for permanent injunction against the second respondent the file of the District Munsif, Madurai and as per the decree passed by the Civil Court, the second respondent has no power to grant permission to the petitioner to put up a bunk stall in that area.

5. The Learned counsel appearing for the petitioner submitted that the area, where the petitioner put up his bunk shop is not covered by the decree in O.S.No.971 of 2002.

6. The learned counsel appearing for the first respondent further submitted that the decree passed in the above suit covers the area, where the petitioner has put up his bunk stall.

7. The learned counsel appearing for the second respondent is not in a position to dispute the same.

8. In the above circumstances, as per the decree passed by the Civil Court in O.S.No.971 of 2002, the second respondent has no power to grant permission to put up any temporary shops and lease out the same in that area and the order of allotment itself is wrong. Hence, the relief sought for by the petitioner cannot be granted. However, considering the submission of the petitioner that he has paid the earnest money deposit of Rs.1,00,000/- and monthly rent of Rs.2,500/- before the second respondent, and since the bunk shop has been removed, the second respondent is directed to refund the entire amount to the petitioner. The fourth respondent also directed to return the bunk shop immediately to the petitioner.

<https://hds.courts.gov.in/cases/>

9. It is also represented by the learned counsel for the petitioner that the tea products worth about Rs.50,000/- has been

taken by the first respondent. This fact has been denied by the first respondent.

10. This Court cannot go into the disputed question whether the petitioner had put the tea products in the bunk shop and whether it has been taken by the first respondent. If the petitioner has any grievance about the missing articles, he can file a civil suit in this regard. Since the second respondent already granted permission to put up the bunk shop and the petitioner has also invested considerable amount, the petitioner is given liberty to approach the second respondent/Madurai Corporation, seeking for any alternative place, enabling him to run his business and in the event of the petitioner approaching the second respondent, the second respondent is directed to consider the same sympathetically and pass orders allotting him any alternative place, if any available with the second respondent.

11. With the above directions, this writ petition is disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar (P&A)

/True copy/

Sub Assistant Registrar

To

1. The Joint Commissioner,
The Hindu Religious and Charitable Endowment,
Madurai.
2. The Commissioner,
Madurai Corporation, Madurai.
3. The Chairman Cum Administrative Director,
Tamil Nadu Tea Plantation Corporation
Regional Office, TANTEA Complex, Kunoor,
Nilagiri.
4. The Joint Commissioner/Executive Officer,
Arulmighu Meenakshi Sundareswarar Devasthanam,
Madurai.

+1cc to Mr. R. MURALI, ADVOCATE SR.NO. 59263

+1CC to Mr. D. SRINIVASARAGAVAN, ADVOCATE SR.NO. 58465

+1cc to MR. S. MANOHAR, ADVOCATE SR.No. 58609

VS

JA-SKS-RR-SAR.3/5.10.2016/3P:8C