



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.11.2016

WEB COPY

CORAM :

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.(MD)Nos.22872 & 22873 of 2016
& W.M.P.(MD) Nos.16363 & 16364 of 2016

Subash Chandra Bose ... Petitioner in W.P.(MD) No.22872/2016
G.Ravi ... Petitioner in W.P.(MD) No.22873/2016

vs.

1. The District Collector,
Sivagangai District
2. The Assistant Director (Panchayats),
Sivagangai District.
3. The Tahsildar, Thiruppuvanam Taluk,
Sivagangai District.
4. The Executive Officer,
Tiruppuvanam Special Grade Town Panchayat,
Sivagangai District. ... Respondents in both W.Ps.

Petitions filed under Article 226 of the Constitution of India, praying for the issuance of Writs of Mandamus, forbearing the respondents from taking steps to remove the shops and the superstructures, in front of the petitioners' shops in Shop Nos.1, 3 and 5 at Daily Market, Tiruppuvanam, without following due process of law.

For Petitioner in both W.Ps. : Mr. J.Anandkumar
For Respondents in both W.Ps.: Mr. V.R.Shanmuganathan,
Spl.G.P., for R-1 to R-3,
Mr. G.Muthukannan,
AGP., for R-4.

C O M M O N O R D E R

Heard both sides. By consent of the learned counsel for both sides, the writ petitions are taken up for final disposal.

The respondents herein conducted an auction for the shops in



the daily market at Tirupuvanam, Sivagangai District. The petitioners were awarded with licenses for Shop No.1, 3 and 5, on monthly rental basis for running vegetable shops. Rents have been fixed at Rs.630/- per month, for each shop and licenses were issued by the fourth respondent, by proceedings dated 15.07.2008, for a period of three years and the same can be renewed upto nine years by paying 15% enhanced rent.

2.1. The petitioners paid the enhanced rental amount to the respondents and the licenses were periodically renewed. The respondents used to collect the rents, in a single payment for whole year. During the second week of March 2016, citing the State Assembly elections, the petitioners were directed to pay the rent, pertaining to the year 2016, on a later date.

3. However, to the shock and dismay of the petitioners, the fourth respondent issued notices to the Political Parties of Tirupuvanam Taluk, Sivagangai District, and other General Public, stating that during the meeting held on 25.11.2016, it was decided to remove the shops, branding them as encroachments and the period mentioned in the said notices expire on 27.11.2016. Hence, these writ petitions have been filed by the petitioners seeking for the aforesaid relief.

4. A perusal of the records would go to show that the petitioners' licences are in force and their periods end only in March 2017. Therefore, prima facie, the respondents are not entitled to remove the shops and the act of the respondents is against the provisions of the Tamil Nadu District Municipalities Act. Further, the respondents are duty bound to issue notices under the Act, to the petitioners, before initiating any proceedings for removal of the shops (as encroachments), since the licences have not been revoked in the manner known to law.

5. The learned Special Government Pleader appearing for the respondents would also submit that the respondents, being a statutory body, would not have any hesitation to assure the Court that due process of law would be followed in causing the eviction of the petitioners.

6. Therefore, these writ petitions stand disposed of, directing the respondents not to evict the petitioners from the shops, except by following the due process of law. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar



To

1. The District Collector,
Sivagangai District.
2. The Assistant Director (Panchayats),
Sivagangai District.
3. The Tahsildar,
Thiruppuvanam Taluk,
Sivagangai District
4. The Executive Officer,
Tiruppuvanam Special Grade Town Panchayat,
Sivagangai District.

+ 2 CC TO Mr.J.ANANDKUMAR, ADVOCATE IN SR No. 72992, 72991
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 73221

SRK

TE/MPA/SAR CO : 29/11/2016 : 3P/8C (IT)

W.P. (MD) Nos. 22872 & 22873 of 2016
& W.M.P. (MD) Nos. 16363 & 16364 of 2016
25.11.2016