

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2017

CORAM

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

W.P.Nos.7479 to 7484 and 7557 to 7561 of 2017
and
W.M.P.Nos.8173 to 8178 and 8238 to 8242 of 2017

A.Loganathan .. Petitioner in WP 7479/17 to WP 7481/17
A.Rajeswari .. Petitioner in WP 7482/17
R.Ranganathan .. Petitioner in WP 7483/17
A.B.Rajamahendran ... Petitioner in WP 7484/17
M.Arun .. Petitioner in WP 7557/17 and WP 7558/17
M.Sivanesan .. Petitioner in WP 7559/17
M.Venkatesan .. Petitioner in WP 7560/17
D.Alagesan .. Petitioner in WP 7561/17
Vs.
1.The Regional Director,
Municipal Administration,
Arisipalayam, Salem.
2.The Commissioner,
Attur Municipality,
Attur, Salem District. .. Respondents in all WPS.

Common Prayer in W.Ps.No.7479 of 2017 To WP 7484/2017 and WPS 7557 to 7561 /17: Petitions filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the second respondent in Na.Ka.No.19/2016/A4 dated 10.02.2017 peruse and quash the same and also to direct the second respondent to renew the lease of the petitioner's Shops No.9, 10,11,15,14,17,12,19,16,18,20 Nehru Poonga vacant land shop from 01.04.2017 to 31.03.2020.

For Petitioner .. Mr.A.Radhakrishnan
in all the W.Ps

For Respondents .. Mr.S.Diwakar,
Spl. Govt. Pleader
in all the W.Ps

COMMON ORDER

The petitioners have been allotted shops about three decades ago as per the affidavits filed in support of the writ petitions. The lease period expires on 31.03.2017. By the impugned notices, the petitioners were informed by the second respondent that the allotment itself has been made over the land, which has been assigned in favour of the said respondent by the revenue authorities to be maintained as a park and action is being contemplated by the said authority to cancel the allotment for violation coupled with the fact that the petitioners' lease getting expired on 31.03.2017, they have to hand over the vacant possession.

2.Learned counsel appearing for the petitioners would submit that interim order has been passed in a similar case in W.P.No.5945 of 2015 and M.P.No.1 of 2015 by granting status quo on 13.03.2015. This Court is afraid that the said submission cannot be a ground for entertaining the writ petitions and granting the interim order.

3.In the cases on hand, the petitioners have been utilising the shops for more than three decades. Their license period expires on 31.03.2017. Thus, in law, they do not have any legal right. Secondly, it is not in dispute that the land which has been assigned in favour of the second respondent has been misused for the purpose other than the one meant to be. Now action is being taken by the revenue authorities, who are the parties before this Court, to cancel the very assignment itself. Therefore, looking from any perspective, this Court does not find any reason to entertain these writ petitions. Accordingly, these writ petitions stand dismissed. However, this order will not stand in the way of the second respondent in considering the representations of the petitioners for allotment in any other place as per law. No costs. Consequently, connected miscellaneous petitions are closed.

28.3.2017

BEING MENTIONED

This matter having been posted on Monday the Tenth day of April 2017 for being mentioned perusing to the order of this Court dt.28.3.17 in the presence of Mr.A.Nandhakrishnan, Advocate for the Petitioner in all the copy and of Mr.S.Diwakar, Special Government Pleader in all the WPs and this Court made the following order:

This matter is listed today under the caption 'for being mentioned' at the instance of the learned counsel for the petitioners.

2.Learned counsel appearing for the petitioners has submitted that in the earlier writ petition in W.P.No.6336 of 2017, dated 15.03.2017, this Court has passed the following order:

4. This Court feels that the said submission cannot be a ground to set aside the impugned order. Admittedly, the lease period comes to an end on 31.03.2017. After the expiry of the said period, he does not have any vested right to hold possession. In that case, the learned counsel for the petitioner prays that, alternate shop may be considered for the petitioner, and till such time, he shall not be disturbed from possession of the present shop.

5. Considering the above said request of the learned counsel for the petitioner, this Court is granting liberty to the petitioner to make an application for provision of alternate shop. The application shall be filed within a period of two weeks from the date of receipt of a copy of this order. On receipt of such representation, the second respondent is directed to consider the same and pass appropriate orders within a period of four weeks thereafter. Till such time, the petitioner shall not be evicted from the shop in possession.

3.Considering the same, in these cases also, liberty is given to the petitioners to make applications for provision of alternate shops. The applications shall be filed within a period of two weeks from the date of receipt of a copy of this order. On receipt of such applications, the second respondent is directed to consider the same and pass appropriate orders within a period of four weeks thereafter. Till such time, the petitioners shall not be evicted from the shops in possession.

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s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

1.The Regional Director,
Municipal Administration,
Arisipalayam, Salem.

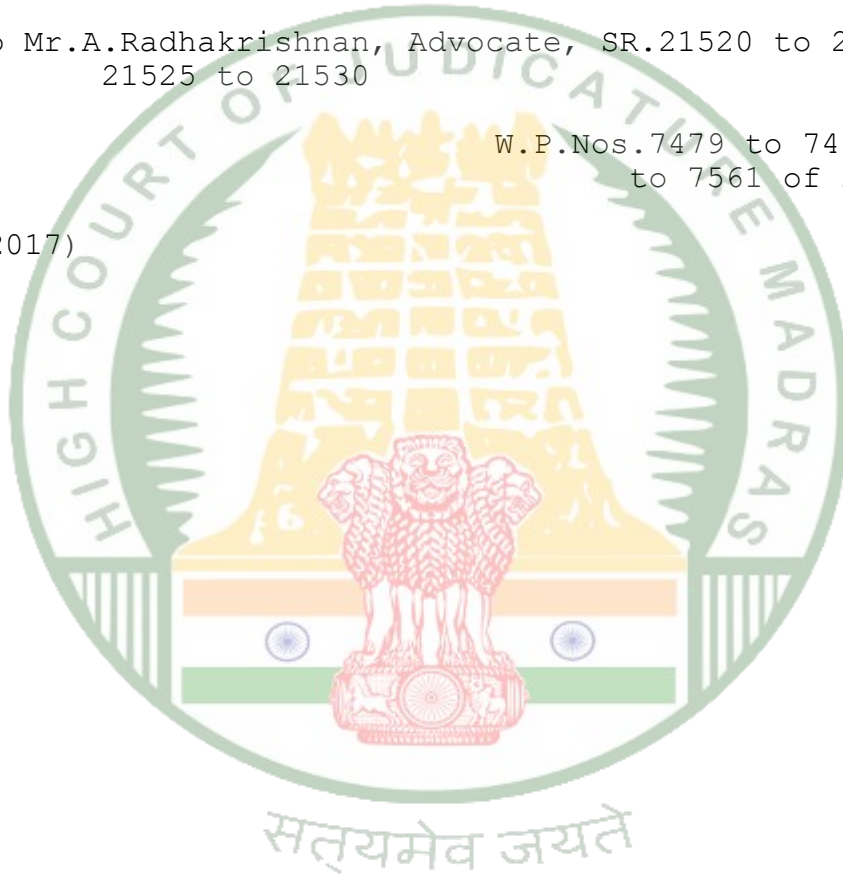
2.The Commissioner,
Attur Municipality,
Attur, Salem District.

+1cc to Mr.S.Diwakar, Advocate SR.No.21511

+9 cc's to Mr.A.Radhakrishnan, Advocate, SR.21520 to 21523,
21525 to 21530

W.P.Nos.7479 to 7484 and 7557
to 7561 of 2017

VSN(CO)
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