

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2017

CORAM

THE HONOURABLE MR.JUSTICE K. RAVICHANDRABAABU

W.P.No.27638 of 2017

P.Rajendrakumar

... Petitioner

vs.

1. The Managing Director,
Kovai-Erode District Co-operative
Palm and Jaggery Sale Samelanam,
Kunnathur No.AA 99
Tirupur District.
2. The Divisional Engineer,
Construction and Building Maintenance
Highways Department,
Dharapuram Division,
Tiruppur District.
3. The Executive Engineer,
TANGENDO,
Dharapuram Taluk,
Tiruppur District.

....Respondents

PRAYER:

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus to direct the 2nd and 3rd respondents to permit the petitioner to run the shop at 77/2 K.M. on the left hand side of the Ottanchatram-Dharapuram-Tiruppur Road i.e. in front of the Dharapuram Taluk Office.

For Petitioner : Mr.M.Guruprasad

For Respondents: No appearance for R1

Mr.E.Balamurugan,
Additional Government Pleader for R2
Mr.S.K.Rameshwar,
Standing Counsel for R3.

O R D E R

The petitioner seeks for a mandamus directing the 2nd and 3rd respondents to permit the petitioner to run the Shop at 77/2 K.M. on the left side of Ottanchatram-Dharapuram-Tiruppur Road i.e. in front of the Dharapuram Taluk Office.

2. Heard the learned counsel for the petitioner and the learned counsels appearing for the respondents.

3. It is seen that the petitioner was granted permission to run a shop for selling farm projects by the side of the State Highways near Taluk Office, Dharapuram, measuring an extent of 10 x 10 feet. The said permission was granted to the petitioner on 11.07.2016 subject to the condition that if the area to which such permission was granted is required for extension of the road, the petitioner should vacate the same on his own expenses. Thereafter, when an attempt was made against the petitioner to evict, he filed a suit in O.S.No.323/2017 on the file of the District Munsif Court, Dharapuram, for bare injunction against the second respondent and other officials of the Highways Department. It is claimed that during the pendency of the suit, the petitioner shop was closed without issuing any notice. Therefore, the present writ petition is filed before this Court with the relief as stated supra.

4. Mr.M.Guruprasad, learned counsel appearing for the petitioner submitted that the second respondent is not justified in closing the shop without even issuing notice to the petitioner, more particularly, when the suit for bare injunction filed by him is pending before the competent Civil Court.

5. Upon hearing the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the second respondent, this Court is of the view that the filing of the present writ petition is totally misconceived since the petitioner has already approached the competent Civil Court and sought for injunction against the second respondent by filing the above said suit. Therefore, it is for the petitioner to work out his remedy only before the competent civil Court where the said Suit is pending, even though some subsequent developments have taken place after filing of the suit. The petitioner can file an application either to amend the plaint or for seeking any other interim relief in the pending suit. When such course of action is available to the petitioner, he cannot be permitted to file a parallel proceedings before this Court by way of this writ petition, which in fact is nothing but to decide the relief sought for in the main suit itself. Therefore, I find that the present writ petition is not maintainable and accordingly, the

same is disposed of by granting liberty to the petitioner to agitate his right in the said suit by raising all the contentions. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsi
To

1. The Managing Director,
Kovai-Erode District Co-operative
Palm and Jaggery Sale Samelanam,
Kunnathur No.AA 99
Tirupur District.
2. The Divisional Engineer,
Construction and Building Maintenance
Highways Department,
Dharapuram Division,
Tiruppur District.
3. The Executive Engineer,
TANGENDO,
Dharapuram Taluk,
Tiruppur District.

+1cc to Mr.M.Guruprasad, Advocate SR.No.84276
+1cc to Government Pleader SR.No.84268

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sm:7.12.2017

सत्यमेव जयते

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