



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.07.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.MAHADEVANW.P(MD)No.11942 of 2017 and
W.M.P.(MD) No.9203 of 2017

Vinoth Kumar

... Petitioner

-vs-

1. The District Collector,
Collectorate,
Theni District.2. The District Manager,
Tamil Nadu State Marketing Corporation,
(TASMAC), Theni District.

3.S.M.K.Mahalingam

... Respondents

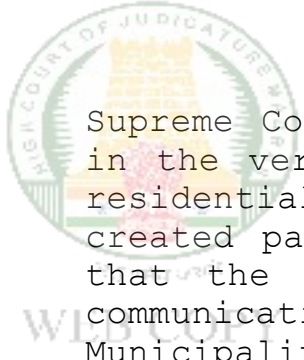
Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order of the 2nd respondent in Ka.No.360/2017/A2 dated 12.06.2017 and quash the same as illegal and consequently direct the respondents to close the shops in TASMAC Shop Nos.8527, 8528, 8575, 8536, 8540 and 8530 and bars attached to the shops in the relocated spots in and around Bus Stand at Theni District.

For Petitioner : Mr.J.Anandkumar
For R1 to R3 : Mr.B.Pugazhendhi
Addl. Advocate General
Asst. by Mr.M.Muniyasamy
Standing counsel

O R D E R

This writ petition has been filed, seeking to quash the impugned order of the 2nd respondent dated 12.06.2017 passed in Ka.No.360/2017/A2, vide which, it was informed to the petitioner that TASMAC Shop Nos.8527, 8528, 8575, 8536, 8540 and 8530 and bars attached to the shops were relocated in and around the Bus Stand at Theni District pursuant to the direction issued by the Hon'ble Supreme Court. The petitioner also sought a direction to the respondents to close down the said shops.

2. The case of the petitioner is that the State Government has directed the respondents to shut down Tasmac Shop Nos.8527, 8528, 8575, 8536, 8540 and 8530, which were situated within 500 meters from the Highways, on the basis of the direction issued by the Hon'ble



Supreme Court. However, all of a sudden, those shops were opened in the very same area in some other buildings, in which several residential areas are situated and the act of the Government created panic among the people. Though the Government has stated that the said area is not located near to any highways, the communication dated 19.06.2014 issued by the Commissioner, Municipality would amply prove the fact that the area is maintained by the Highways department only. He would further submit that the petitioner made a representation dated 06.06.2017 to the 2nd respondent for closure of the shops and his request was rejected vide order impugned herein. Aggrieved by the same, the petitioner is before this Court with the above prayer.

3. Learned counsel for the petitioner would submit that the shops in dispute are situated in the Highways only, which is evident from the communication dated 19.06.2014 sent by the Municipal Engineer-cum-Commissioner as well as the Divisional Engineer's letter dated 23.06.2014 addressed to the District Collector, in which certain difficulties with regard to placement of those shops have been pointed out.

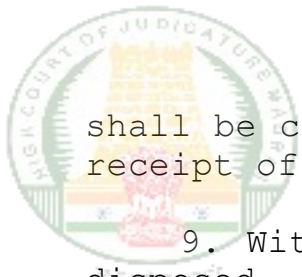
4. Per contra, learned Additional Advocate General has contended that out of six shops, Shop Nos.8527 and 8528 are already in existence in the very same area for quite a long time and other shops were alone decided to be relocated as per the direction of the Hon'ble Apex Court.

5. The said submission is highly refuted by the learned counsel for the petitioner stating that the shops in questions are situated within the State Highways.

6. Heard the learned counsel for the petitioner and the learned Additional Advocate General appearing for the respondents.

7. The dispute as to whether the shops are situated within the boundary of National / State Highways or not, cannot be gone into at this stage. However, a perusal of the impugned order dated 12.06.2016 would unfold that it has been passed in a hasty manner without hearing the petitioner and it has not been stated whether any enquiry has been conducted before taking a decision to relocate those shops in the present locality. Therefore, on the said ground, the impugned order is liable to be set aside in the interest of justice.

8. Accordingly, the impugned order of rejection of the petitioner's claim is set aside and the matter is remitted back to the 2nd respondent, who in turn shall pass a fresh order after conducting a thorough enquiry in respect of placement of those shops and after affording an opportunity of hearing to the petitioner. It is needless to mention that the whole exercise



shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

9. With the above observation and direction, this petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

To:

1. The District Collector,
Collectorate,
Theni District.

2. The District Manager,
Tamil Nadu State Marketing Corporation,
(TASMAC), Theni District.

+One cc to Mr.J.Anandkumar, Advocate, SR.No.63864

+One cc to The Special Government Pleader, SR.No.64004

ar/rm

RL/5C/3P/MR/SAR1/14/7/2017

W.P (MD) No.11942 of 2017

06/07/2017