



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.(MD)No.15151 of 2017

and

W.M.P.(MD)No.11968 of 2017

K.Senthilkumar

...Petitioner

-Vs-

1.The District Collector,
The District Collector Office,
Thanjavur District.

2.The Sub Collector,
Kumbakonam Taluk Office,
Kumbakonam Taluk,
Thanjavur District.

3.The Tahsildar,
Kumbakonam Taluk Office,
Kumbakonam Taluk,
Thanjavur District.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 1st respondent in Na.Ka.19875/2017/Aa1 dated 01.08.2017 and quash the same as illegal and consequently direct the 1st respondent to permit the petitioner to continue the bunk situate in Kumbakonam Taluk Office, Thanjavur District.

For Petitioner : Mr.S.Arivalagan

For Respondents : Mr.A.Muthukaruppan

Additional Government Pleader

O R D E R

The petitioner has come up with this Writ petition challenging the order passed by the first respondent in Na.Ka.No.19875/2017Aa1, dated 01.08.2017.

2.The petitioner would state that he submitted an application to the Tahsildar, Kumbakonam to permit him to sell the stamps in a bunk within the campus Taluk Office, Kumbakonam. In pursuance of the application, the Public Works Department gave permission to the petitioner on 16.12.2010 and as such, he has been running a bunk since 2010.



3.The petitioner would further submit that the Assistant Engineer, Public Works Department, Thanjavur renewed the license from 01.01.2017 to 31.12.2017, based on the recommendation of the Tahsildar. He had also paid license fee till 31.12.2017. Since, there was an attempt to evict the petitioner, he filed the writ petition in W.P.(MD)No.9168 of 2017, in which, this Hon'ble Court had directed the first respondent to consider the petitioner's representation, dated 12.05.2017. However, by an impugned order, the first respondent has rejected the representation of the petitioner. Hence, the present writ petition.

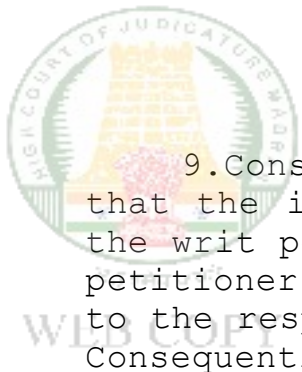
4.Heard Mr.S.Arivalagan, learned counsel for the petitioner and Mr.A.Muthukaruppan learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

5.The learned counsel for the petitioner would submit that the petitioner license was already renewed upto 31.12.2017 and he also paid license fee. But during the subsistence of the license period, the respondents have no right to evict the petitioner. The learned counsel has filed an affidavit undertaking of the petitioner, dated 11.09.2017, stating that on expiry of the license period ie. on 31.12.2017, he would vacate the bunk installed in the Taluk Office, Kumbakonam.

6.Per contra, Mr.A.Muthukaruppan, learned Additional Government Pleader by referring counter filed by the third respondents contented that the place is required for the public purpose and the bunk causing hindrance to the ingress and egress of the Taluk Office complex.

7.It is not in dispute that the petitioner was granted permission to install the bunk in the year 2010 and his license was renewed upto 31.12.2017. It is also not in dispute that the petitioner has paid the license fee till 31.12.2017. The petitioner has filed an earlier writ petition in W.P.(MD).No.9168 of 2017 seeking permission to run the bunk till 31.12.2017, given undertaking to vacate the bunk on the expiry of the license period. The first respondent has rejected the representation mainly on the ground that the petitioner did not produce the relevant documents.

8.It is seen that in the earlier writ petition that the petitioner had produced the license and the receipt for payment of license fee. Further the petitioner has been running the business for the past about seven years without any complaint. So this Court is inclined to countenance the reason assigned in the order. The petitioner has also filed an affidavit undertaking to vacate the bunk on 31.12.2017.



9. Considering the above facts, this Court is of the opinion, that the impugned order is liable to be set aside. In that view, the writ petition is allowed. The impugned order is set aside. The petitioner is directed to vacate the bunk and hand over possession to the respondents on 31.12.2017 as per his undertaking. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub-Assistant Registrar

To

1. The District Collector,
The District Collector Office,
Thanjavur District.

2. The Sub Collector,
Kumbakonam Taluk Office,
Kumbakonam Taluk,
Thanjavur District.

3. The Tahsildar,
Kumbakonam Taluk Office,
Kumbakonam Taluk,
Thanjavur District.

+One cc to M/s.K.Baalasundharam, Advocate, SR.No.77904

+One cc to The Special Government Pleader, SR.No.78352

psd/msa

RL/6C/3P/JC/SAR1/26/9/2017

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and

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