



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 05.04.2017

CORAM :

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

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Writ Petition (MD) No.2461 of 2017
and WMP(MD)Nos.3646,2082 of 2017

1.K.Sarath Kumar
2.Suseela

... Petitioners

Vs.

1. The Manager,
Village Industries and Administration Department,
District Industries Centre,
Madurai-625002.

2.Allaudin

... Respondents

(R2 is impleaded vide court order
dated 16.02.2017 in WMP(MD) No.2222 of 2017)

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the first respondent dated 19.01.2017 in proceedings Na.Ka.No.8624/Va3/2016 quash the same, as the same is arbitrary, ultravires, in violation of the principles of natural justice, audi alteram partem.

For petitioner	: Mr.R.G.Shankar Ganesh
For R1	: Mr. A.Muthukaruppan Additional Government Pleader
For R2	: Mr.N.Mohideen Basha

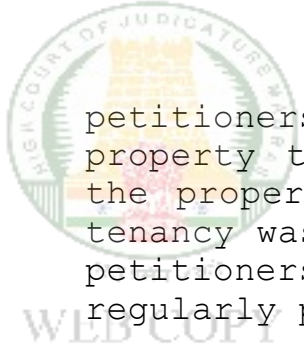
O R D E R

This writ petition has been filed seeking for issuance of writ of Certiorari to call for the records of the first respondent dated 19.01.2017 in proceedings Na.Ka.No.8624/Va3/2016 and quash the same.

2. Heard the learned counsel appearing for the petitioners and the learned Additional Government Pleader appearing for the first respondent and the learned counsel appearing for the second respondent.

3. According to the petitioners, they are carrying business in the name and style of 'Sri Muruga Vilas Rice Grinder' in the first floor of the property comprised in Door.No.99/53 and they were also residing in the first floor of the same premises as a tenant. According to the petitioners, they are paying Rs.1000/- as rent for the premises and for occupation.

According to the petitioners, one Karuppasamy died on 24.01.2009 leaving behind the first petitioner, who is his widow and the second petitioner, who is the son as his legal heirs and the



petitioners have paid entire property tax due in respect of the property to Madurai Corporation. The impugned order states that the property in question has been sold to one Jimman Begum and tenancy was also attested orally in favour of her. According to the petitioners, after agreement of tenancy the petitioners were regularly paying rent to the present owner of the premises.

4. According to the petitioners, the new owner of the premises attempted to disturb the tenancy and interfered with their peaceful possession and the business carried on by the petitioner. Therefore, they filed O.S.No.523 of 2016 on the file of the learned Principal District Munsif, Madurai seeking permanent injunction. According to the petitioner, interim injunction was granted in the said suit in I.A.No.757 of 2016.

5. According to the petitioner, they were granted license on 17.10.2015 by the first respondent for running business in the name and style of 'Sri Muruga Vilas Rice Grinder' in the same premises. While matter stood thus, the first respondent, without issuing any notice to the petitioner, had suddenly cancelled the license issued on 17.10.2016 by issuing the impugned proceedings dated 19.01.2017. According to the impugned proceedings, pendency of litigation between the petitioners and the new landlord was the reason for cancellation of license issued to the petitioners.

6. The learned counsel for the petitioners would submit that pendency of litigation between the parties is not the ground for cancellation of license and more over, such cancellation, without any notice to the petitioner, would vitiate the order passed by the first respondent. During the pendency of the writ petition, the second respondent, who is the present landlord, has been impleaded as the second respondent.

7. The principal contention raised by the learned counsel for the petitioners is that no notice has been given to the petitioners before cancellation of the license and from the impugned order, it could be seen that no opportunity was afforded to the petitioner.

8. In my considered view, the order passed by the first respondent cannot be sustained in law for the simple reason that no opportunity has been given to the petitioner before cancelling the license granted to the petitioner.

9. In such circumstances, this Court is inclined to set aside the impugned order passed by the first respondent and the same is set aside. The first respondent is directed to pass order afresh after getting objections from the parties concerned within a period of eight weeks from the date of receipt of copy of this



10. In the result, this writ petition is allowed. No costs. Consequently, connected W.M.P.(MD) Nos. 2082 and 3646 of 2017 are closed.

Sd/-

Assistant Registrar(CO)

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/True Copy/

Sub Assistant Registrar

To

The Manager, Village Industries and Administration Department,
District Industries Centre, Madurai-625002.

+1CC TO MR.R.G.SHANKAR GANESH, ADVOCATE, SR.50570

+1CC TO MR.N.MOHIDEEN BASHA, ADVOCATE, SR.50116

+1CC TO M/S THE SPECIAL GOVERNMENT PLEADER, SR.NO.50717

Writ Petition (MD) No.2461 of 2017
and

WMP (MD) NOS.3646,2082 of 2017
05.04.2017

CM

KK/RSK/SAR3/12.04.2017-3P-5C