



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **05.09.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**

WEB COPY

W.P (MD) No.10292 of 2013

and

M.P (MD) Nos.1 to 3 of 2013

A.Thirumalai

.. Petitioner

Vs.

1.The Chairman,
Sankarankovil Municipality,
Sankarankovil, Tirunelveli District.

2.The Commissioner,
Sankarankovil Municipality,
Sankarankovil, Tirunelveli District.

3.J.Paulraj

4.Prema

[Fourth respondent is suomotu impleaded vide
order dated 04.07.2013]

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the second respondent vide his proceedings in Na.Ka.No.2345/2010/A3, dated 24.11.2011 and quash the same as illegal and arbitrary and consequently direct the respondents 1 and 2 to transfer the Shop No.16 at Anna Bus Stand, Sankarankovil, Tirunelveli District in the name of the petitioner.

For Petitioner : Mr.R.Pon Karthihekyan

For Respondents 1 and 2 : Mr.P.Mahendran

For Respondent No.3 : Mr.F.X.Eugene

For Respondent No.4 : Mr.P.Santhanakrishnan

ORDER

This writ petition has been filed seeking a writ of Certiorarified Mandamus to quash the proceedings in Na.Ka.No.2345/2010/A3, dated 24.11.2011, issued by the second respondent and direct the respondents 1 and 2 to transfer Shop No.16, situated at Anna Bus Stand, Sankarankovil, Tirunelveli District, in the name of the petitioner.



2.The case of the petitioner is that Shop No.16, situated at Anna Bus Stand, Sankarankovil, Tirunelveli District, belongs to the second respondent Municipality, has been leased out to the petitioner. Due to ill-health, he entrusted the management of the said shop to his relative, who in turn, appointed the third respondent to manage the said shop. The third respondent also approached the petitioner to transfer the said shop in his name. Since the petitioner refused for the same, the third respondent by impersonation, obtained transfer of the said shop in his name, by producing fraudulent documents and the second respondent also passed the impugned order. Therefore, the petitioner made a representation to the second respondent to cancel the said transfer and restore the shop in his name. Since the same was unattended so far, the petitioner is before this Court.

3.Heard both sides.

4.Though the proceedings dated 24.11.2011 passed by the second respondent with regard to transfer of lease in respect of Shop No.16, situated at Anna Bus Stand, Sankarankovil, Tirunelveli District, is in dispute, the learned counsel appearing for the petitioner, learned counsel appearing for the third respondent as well as the learned counsel appearing for the second respondent, jointly agreed that necessary enquiry, on the allegation of forgery committed to have the shop transferred in the name of third respondent, would be conducted and the petitioner as well as the third respondent are agreed to appear before the second respondent for the purpose of conducting enquiry.

5.Under such circumstances, this Court, without going into the merits of the petitioner's claim, directs the second respondent to conduct proper enquiry with regard to forgery committed for transfer of shop in the name of the third respondent, by intimating the actual date for appearance of the respective parties, well in advance and upon appearance of those parties, conduct necessary enquiry and pass appropriate orders on merits and in accordance with law, after affording due/proper opportunity of hearing to the parties, within a period of six weeks from the date of receipt of a copy of this order. Till passing of order in the enquiry, the third respondent shall not be disturbed.

6.The writ petition is disposed of as above. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar



To

1.The Chairman,
Sankarankovil Municipality,
Sankarankovil, Tirunelveli District.

2.The Commissioner,
Sankarankovil Municipality,
Sankarankovil, Tirunelveli District.

+1cc to M/S.R.PON KARTHIKEYAN, Advocate SR.No.76493

+1cc to M/S.P.MAHENDRAN, Advocate SR.No.76864

+1cc to M/S.F.X.EUGENE, Advocate SR.No.76900

das/smn

MAS/MR-KKR/SAR3:18.09.2017:3P-6C

**ORDER MADE IN
W.P(MD)No.10292 of 2013
and
M.P(MD)Nos.1 to 3 of 2013
05.09.2017**