

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2018

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDHASAN

W.P.No.19391 of 2017
and
WMP.No.20900 of 2017

S.Jaganathan

...Petitioner

Vs.

The Commissioner,
Corporation of Coimbatore,
Coimbatore.

...Respondent

PRAYER : Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondent to restore the petitioner's shop premises i.e. Shop No.6, First Floor, Vadavalli Bus Stand Corporation Shopping Complex Vadavalli, Coimbatore 41 as in original position or pay the sum of Rs.25 lakhs as compensation for loss of properties, mental agony, loss of peace of mind and damage to the petitioner's reputation incurred by the petitioner due to illegal demolition done by the respondent on 01.03.2017 and to direct the respondent to allot the shop for 320 sq. feet in newly upcoming shopping complex in the Vadavalli Bus Stand Corporation Shopping Complex, Coimbatore 41.

For Petitioner : Mr.G.Ramadurai

For Respondent : Mr.S.Saravanan

O R D E R

The Writ Petition has been filed seeking to issue a Writ of Mandamus directing the respondents to pay compensation of Rs.25 lakhs for the loss of properties, mental agony, loss of peace of mind and damage to the petitioner's reputation due to illegal demolition of the shop, which was under occupation of the petitioner, by the respondent on 01.03.2017.

2. According to the petitioner, he was in occupation of a shop allotted to him by Vadavalli Town Panchayat, in a shopping complex near Vadavalli Bus Stand. The petitioner has been paying

the lease amount periodically to the Town Panchayat, and to the respondent, after the Panchayat was merged with the respondent corporation. Under such circumstances, all of a sudden, on 01.03.2017 the officials of the respondent Corporation, along with police force, illegally evicted the petitioner from his shop without even issuing a notice prior to such eviction. According to the petitioner, by reason of such forcible eviction, the petitioner sustained loss besides causing mental agony and therefore, the petitioner seeks for a compensation of Rs.25,00,000/-

3. The respondent filed a counter affidavit stating that in order to extend the Bus stand as well as Road, the shopping complex belonged to the corporation was demolished. Before such demolition, the Corporation has issued notice to the petitioner and other shop owners. As far as the notice sent to the petitioner. Further, the petitioner has paid the lease amount only up to 01.03.2017 and thereafter, he did not pay the lease amount and committed default. In any event, the respondent has demolished the building in question only after issuing notice to the petitioner. It is not the petitioner's shop which was demolished, but several other shops were also subjected to eviction. It is further submitted that the petitioner is not entitled to any relief in the writ petition, including payment of compensation by the Corporation. The petitioner cannot seek for the direction to the respondents to pay a sum of Rs.25 lakhs by way of the present writ petition, and prayed for dismissal of the writ petition.

4. Heard, Mr.G.Ramadurai, the learned counsel for the petitioner and Mr.S.Saravanan, the learned counsel for the respondent.

5. The main contention urged on behalf of the petitioner is that the petitioner was evicted by the respondent corporation without following the due process of law, much less issuing a notice prior to eviction. According to the respondent, notice was issued to the petitioner and other shop owners, this was clearly stated in para-6 of the counter affidavit. It is also further stated that intimation regarding eviction was also published in the daily newspapers and only thereafter, demolition was carried out. The fact remains that not only the petitioner was evicted from the shop which was under his occupation, but several other shop owners were also evicted for expansion of Vadavalli bus stand. It is further stated in the counter affidavit that the petitioner and other shop owners have voluntarily come forward to hand over the possession of the shop to the corporation and also vacated their respective shops by taking away all their belongings. In the light of the above averments in the counter, this Court is of the view that the

contention of the petitioner regarding issuance of prior notice before evicting him, cannot be accepted.

6. As far as the claim of the petitioner for damages to the tune of Rs.25 lakhs, this Court, it cannot be decided in a Writ Petition by this Court in exercise of jurisdiction under Article 226 of The Constitution of India. The question of payment of compensation requires evidence, and the petitioner has to establish the same by adducing necessary evidence. Therefore, it is open to the petitioner to file a suit seeking compensation before the competent Civil Court, if he is so advised. It is now submitted by the petitioner that the Corporation has to return the lease amount to the petitioner. In this context, the petitioner can make a representation to the corporation. If any representation is received from the petitioner, the corporation is directed to consider the said representation and pass appropriate orders on merits.

7. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

dna

To

The Commissioner,
Corporation of Coimbatore,
Coimbatore.

+lcc to Mr.G.Ramadurai, Advocate, S.R.No.59422

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W.P.No.19391 of 2017
and
WMP.No.20900 of 2017

RSI (CO)
GSP (12/10/2018)