

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2018

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P No.32653 of 2012

and

M.P.Nos.1 of 2012 & 1 of 2013

Madesh

..Petitioner

Vs

- 1.The Secretary,  
Municipality and Rural Development Department,  
Secretariat,  
Fort St.George,  
Chennai - 600 009.
- 2.The District Collector,  
Krishnagiri.
- 3.The Executive Officer,  
Town Panchayat,  
Kaveripattinam,  
Krishnagiri Taluk and District. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, to call for the records in the notice issued by the third respondent in Na.Ka.No.166/2012(A1), dated 15.11.2012 and quash the same.

For Petitioner : Mr.C.Samivel

For Respondents : Mr.N.Inbanathan

Additional Government Pleader, for R1 & R2

Mr.P.Sanjai Gandhi, for R3

O R D E R

This writ petition has been filed to quash the notice dated 15.11.2012 of the third respondent in Na.Ka.No.166/2012 (A1) directing to vacate shop No.4 and hand over the key.

2. Heard Mr.C.Samivel, learned counsel for the petitioner, Mr.N.Inbanathan, learned Additional Government Pleader, appearing for the respondents 1 and 2 and Mr.P.Sanjai Gandhi, learned Standing counsel appearing for the third respondent and perused the materials available on record.

3. The case of the petitioner is that he has become a successful bidder in the auction held in the year 2011, pursuant to the notification dated 27.06.2011 and he has been doing business the third respondent has issued an impugned notice dated 15.11.2012 on the ground that it is in a dilapidated condition. According to the petitioner that the building is in sound condition and the notice would deprive the livelihood of the petitioner.

4.The learned counsel for the petitioner submitted that the buildings were constructed and inaugurated in the year 2011 and the reason given by the third respondent, seeking possession of the shop for demolition and reconstruction is unsustainable. It is further submitted that the third respondent had constructed totally four shops and in respect of other three lessees, no action was taken.

5. The third respondent has filed a counter affidavit, stating that the Department of Municipal Administration and Water Supply (MA2) Department has passed a G.O.(D).No.225 dated 05.09.2012, sanctioning Rs.75 lakhs to the third respondent for construction of Community Hall and Shopping Complex, under the scheme of Integrated Urban Development Mission (IUDM). It is further stated that the third respondent, in order to implement the scheme, requested the lessees of the entire shops to vacate the shops. In respect of 14 shops, the lessees have already vacated and the shops were demolished and with regard to the other four shops alone demolition could not be carried out. It is further submitted that the proposed construction of the Shopping Complex is delayed for the only reason that the remaining four lessees have not vacated the shops.

6.The learned counsel for the third respondent further submitted that for the past six months, the petitioner is not running the business and the shop is under the lock and key. He has further submitted that the petitioner has not produced any materials to show that the respondent has directed the petitioner to vacate the shop, during the lease period.

7. In the instant case, admittedly the petitioner is a lessee and his lease period commenced in the year 2011. The respondent is categorically stated in the counter affidavit, that the Government had already sanctioned Rs.75 lakhs for

construction of a shopping complex. However, due to the delay caused by four lessees in vacating the shops, the project could not be carried out. The respondents have already directed the petitioner to vacate the shop and the petitioner has no legal right to obstruct the same on the ground that the building is in a good condition.

8. It is settled law that in respect of policy decision taken by the State, only in rarest of rare cases and in exceptional circumstances, the Court can interfere and the case in hand is not such one. The experts have taken a decision on the condition of the building, in which, the Court cannot have any say especially when the petitioner has not produced any material in support of his case.

9. In the light of the above facts, I find no merits in this writ petition. Hence, the writ petition stands dismissed. The petitioner is directed to handover the shop to the third respondent, within a period of two weeks from the date of receipt of a copy of this order, failing which, the third respondent is at liberty to take possession with the help of the Police. No costs. Consequently, connected miscellaneous petitions are closed.

-Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

To

1. The Secretary,  
Municipality and Rural Development Department,  
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Fort St. George,  
Chennai - 600 009.

2. The District Collector,  
Krishnagiri.

3.The Executive Officer,  
Town Panchayat,  
Kaveripattinam,  
Krishnagiri Taluk and District.

- 1 cc to Mr.C.Samivel Advocate21790
- 1 cc to The Government Pleader Sr.No.22858

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SV(CO)  
RRI 16/04/2018



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