

In the High Court of Judicature at Madras
Dated : 31.10.2018

Coram
The Honourable Mr.Justice K.K. SASIDHARAN
AND
The Honourable Mr.Justice R. SUBRAMANIAN

W.P.No.26294 of 2018
and WMP No.30554 of 2018

D. Kannan

.... Petitioner

..vs..

Vellore Corporation
rep by its Commissioner
Infactory Road,
Vellore - 632 001

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified mandamus to call for the concerned records from the respondent, quash the order of the respondent dated 19.09.2018 bearing Na.Ka.No.4946/2018/F1 as illegal, arbitrary and contrary to law and consequently direct the Respondent Corporation not to disturb the petitioner from running his petty shop at Shop No.1/1, Old Bus Stand, Vellore 632 001, selling News Papers, Magazines. Cool Drinks, Water Bottle, Betel Nut, Kerchief and bags.

For Petitioner : Mr.Balan Haridas

For respondent : Mr.Silambannan
Senior Counsel for
Ms.P. Shanthi

ORDER

(Order of the Court was made by R. SUBRAMANIAN,J.)

The petitioner challenges the notice dated 19.09.2018 issued under Sections 258 and 502 of Coimbatore City Municipal Corporation Act, 1981 requiring him to remove the bunk, which according to the respondent, has been put up by the petitioner, illegally without permission.

2. We have heard Mr.Balan Haridas, learned counsel for the petitioner and Mr.Silambannan, learned Senior Counsel for the respondent Corporation.

3. The learned counsel for the petitioner submitted that on 30.05.2000, the respondent Corporation, as erstwhile Municipality, has passed a Resolution permitting the petitioner to establish bunk in the present location. Therefore, he cannot be treated as encroacher. The Resolution passed by the Municipality is not in dispute. Hence the petitioner cannot be treated as encroacher or unauthorised occupant.

4. Mr.Silambannan, learned Senior Counsel appearing for the respondent Corporation would submit that the petitioner has not paid any rent for the area, in his occupation.

5. Inasmuch as the fact that the petitioner has been permitted to occupy the area by the erstwhile Municipality, the impugned proceedings dated 19.09.2018 treating the petitioner as an encroacher is liable to be quashed and accordingly, it is quashed and the Writ Petition stands allowed. It is open to the respondent Corporation to fix the rent for the area, in occupation by the petitioner, in accordance with the prevailing guidelines and the petitioner shall continue to pay the licence fee and profession tax. No costs. Consequently, connected WMP is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

sr

To

The Commissioner,
Vellore Corporation,
Infactory Road,
Vellore - 632 001.

+1cc to Mr.P.Shanthi, Advocate, S.R.No.74778
+1cc to Mr.Balanharidas, Advocate, S.R.No.75081

W.P.No.26294/2018

BS (CO)

rrs 27/11/2018