



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

WP (MD) No.153 of 2018

and

WMP(MD) Nos.162 and 163 of 2018

S.Dhananjay Adithan

.. Petitioner

Vs.

1.The Thiruchendur Arulmigu Subramaniasamy
Thirukoil idol rep.by its
Joint Commissioner/Executive Officer,
Tiruchendur,
Thoothukudi District.

2.The Commissioner,
HR & CE.,
119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai - 600 034.

3.The District Collector,
Thoothukudi District,
Thoothukudi.

4.The Superintendent of Police,
Thoothukudi District,
Thoothukudi.

5.The Revenue Divisional Officer,
O/o. Revenue Divisional Office,
Tiruchendur,
Thoothukudi District.

6.The Inspector of Police,
Tiruchendur Temple Police Station,
Tiruchendur,
Thoothukudi District.

... Respondents

Petition filed under Article 226 Constitution of India to
issue a Writ of Certiorari calling for the records pertaining to the
impugned eviction notice in Na.Ka.No.4755/2015/E2 dated 02.01.2018
passed by the first respondent and quash the same.



For Petitioner : Mr.J.Ashok
for M/s.Babu Rangasamy Associates

For R1 : Mr.Muthu Geethaiyan, Standing Counsel

For R2 to R6 : Mrs.J.Padmavathi Devi
Special Government Pleader

ORDER

This writ petition has been filed, challenging the notice issued by the first respondent, directing the petitioner to vacate the shop.

2.According to the petitioner, earlier, a proceeding under Section 78(1) of the HR & CE Act, 1959 has been initiated against the petitioner. Challenging the above proceeding, a revision has been filed before the second respondent/Commissioner, HR & CE Department, and the same was dismissed. Challenging the order of dismissal, the petitioner has filed W.P.No.14003 of 2012 before the Principal Bench of this Court and obtained an order of interim stay and the stay was in force. In the above circumstances, when the order of eviction has already been stayed by the Principal Bench of this Court, the first respondent cannot issue the impugned notice, directing the petitioner to vacate the premises. Earlier, this Court, while entertaining the writ petition on 04.01.2018, ordered notice to the respondents and granted interim stay.

3.Today, when the matter is taken up for hearing, the learned counsel appearing for the first respondent submitted that the writ petition filed by the petitioner in W.P.No.14003 of 2012 has been dismissed by the Principal Bench of this Court on 13.02.2018. Hence, the petitioner cannot claim any relief in this writ petition.

4.The learned counsel appearing for the petitioner submitted that the petitioner is ready to vacate the premises and he requires two weeks time for removing the articles kept in the shop and he is also willing to give an undertaking before the first respondent to that effect.

5.Considering the fact that the writ petition filed by the petitioner in W.P.No.14003 of 2012 has already been dismissed by the Principal Bench of this Court and also considering the fact that the petitioner is ready to vacate the premises, the relief sought in the present writ petition cannot be granted. Hence, this writ petition is dismissed. However, the petitioner is directed to appear before the first respondent and file an undertaking affidavit to the effect that he will vacate the premises on or before 15.03.2018. On filing such undertaking affidavit, the first respondent is directed to consider his request and give two weeks' time to vacate the



premises. If the petitioner failed to vacate the shop on or before 15.03.2018, it is open to the respondents to evict the petitioner from the shop. No costs. Consequently, WMP(MD)Nos.162 and 163 of 2018 are closed.

Sd/-

Assistant Registrar(C.O.)

/True Copy/

Sub Assistant Registrar

To

1.The Commissioner, HR & CE., 119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.

2.The District Collector, Thoothukudi District,
Thoothukudi.

3.The Superintendent of Police, Thoothukudi District,
Thoothukudi.

4.The Revenue Divisional Officer, O/o. Revenue Divisional Office,
Tiruchendur, Thoothukudi District.

5.The Inspector of Police, Tiruchendur Temple Police Station,
Tiruchendur, Thoothukudi District.

+1CC to M/s.Babu Rengasamy Associates, SR.No. 52091

+1CC to Mr.M.Muthugeethayan, Advocate, SR.No. 51573

+1CC to the Special Government Pleader SR.No.51940

WP (MD) No.153 of 2018

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AM/SKN RSK/SAR 3/06.03.2018/3P/9C