



WEB COPY

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 09.03.2018**

CORAM

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND**

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD) .No.2671 of 2018

P.Mythili

... Petitioner

Vs.

1. The District Collector,
Madurai District.
2. The Executive Engineer,
Public Works Department,
Periyar-Vaigai Basin Division,
Thallakulam,
Madurai-2.
3. The Commissioner,
Madurai Corporation,
Madurai.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to restore the possession of the petitioner's shop situated at PWD Land No.44-A and 44-B in S.No.968/6 of Arapalayam-Chinthamani Channel to the petitioner by forbearing the respondents and their men not to unlawfully evict the petitioner from her shop situated at PWD Land No.44-A and 44-B in S.No.968/6 of Arapalayam - Chinthamani Channel without following the procedure established under the law, in consequentially direct the 3rd respondent to pay a sum of Rs.2,00,000/- as compensation for damaging and unlawful evicting the petitioner from her shop.

For Petitioner	: Mr.R.Rajamohan
For R1 and R2	: Mr.D.Muruganantham Addl. Government Pleader
For R3	: Mr.T.S.Mohamed Mohideen

O R D E R

[Order of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mr.R.Rajamohan, learned counsel appearing for the petitioner and Mr.D.Muruganantham, learned Additional Government Pleader appearing for the respondents 1 and 2 and Mr.T.S.Mohamed Mohideen, learned standing counsel appearing for the third respondent Corporation.



2.The petitioner, who was granted permission to locate a bunk shop for selling Aavin Products in Survey No.968/6 above Sinthamani Channel measuring 2.25 mtr x 1.50 mtr, has rushed to this Court, because his bunk shop has been removed from the place where the shop was located and it has been severely damaged. Therefore, the petitioner wants the bunk shop to be restored in the same place. The second respondent, Public Works Department had granted permission vide proceedings, dated 09.12.2010, the reason being the bunk shop was permitted to be relocated over a Channel.

3.According to the respondent Corporation, the bunk shop was hindrance to the traffic and it is situated in a corner and therefore, the bunk shop was removed. In this regard, written instructions have been given by the Corporation to the learned standing counsel. Further, it is submitted that even as per the submission of the petitioner, the bunk shop has been removed by the Departmental Officials and there is no specific allegation that the Official of the respondents Corporation removed the bunk shop. In any event, the petitioner is not an encroacher, but he has been carrying business, based on a license issued by the second respondent. Apart from that, the petitioner is a licensee of Aavin, who is authorized to sell their products. Therefore, the third respondent should provide an alternative site to the petitioner to locate his bunk shop.

4.Accordingly, we direct the third respondent to identify a suitable site to enable the petitioner to locate the bunk shop within a period of one week from the date of receipt of a copy of this order, after which, the petitioner shall shift the bunk shop to the new location. The petitioner shall be granted license clearly specifying the period during which, he can locate the bunk shop in the said area. While choosing the location, the third respondent Corporation shall have due regard to the issues such as traffic and pedestrians movement and the petitioner has no discretion to insist upon any particular site and the petitioner shall locate the bunk shop in the site allotted by the respondent Corporation.

5.With the above direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(crl side)

/True Copy/

Sub Assistant Registrar

To

<https://hcservices.ecourts.gov.in/hcservices/>

1. The District Collector,
Madurai District.



2. The Executive Engineer,
Public Works Department,
Periyar-Vaigai Basin Division,
Thallakulam,
Madurai-2.

3. The Commissioner,
Madurai Corporation,
Madurai.

+1cc to Mr.T.S.Mohamed Mohideen, Advocate Sr.No.54299
+1cc to Spl.Government Pleader Sr.No.54601

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VB/JC/SAR2/22.03.2018/3P/6C

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