



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.08.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE V. PARTHIBAN

W.P. (MD) No.18018 of 2018

and

W.M.P. (MD) No.15903 of 2018

K.Irulappan

... Petitioner

vs.

1. Sattur Municipality,
represented by its Commissioner,
Sattur Municipal Office,
Sattur, Virudhunagar District.

2. Senthooor Vakana Kapakam,
PVS Complex,
Madurai Bus stop,
Sattur, Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Mandamus forbearing the respondents from permitting and running of any private card stand at Sattur Municipal limits in contravention of Section 270-E of the Tamil Nadu District Municipalities Act, 1920.

For Petitioner : Mr.K.K.Senthil

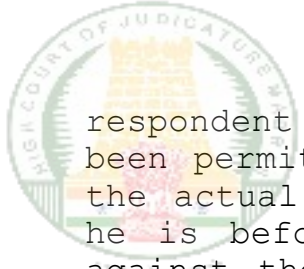
For Respondents : Mr.M.Kannan for R.1

O R D E R

The petitioner's grievance is that he was actually granted licence by the first respondent Municipality for collecting parking fee from two wheelers in one of the properties belonging to the Municipality in pursuant to the public auction conducted for a period of three years commencing from 01.04.2018 to 31.03.2021. In order to become the successful bidder, the petitioner paid a huge amount of Rs.2,45,001/- plus an increase of 5% for succeeding each year of the said sum and on being granted licence, the petitioner started to collect the parking fee and the first respondent Municipality had also earmarked the premises for parking of the two wheelers as public cart stand.

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

2. While the matters stood thus, it appears that the second



respondent who had not been authorised to have a cart stand, had been permitted to have a cart stand prejudicial to the interest of the actual licence holder viz., the petitioner herein. Therefore, he is before this Court seeking issuance of writ of Mandamus as against the first respondent from permitting the second respondent for running a private cart stand in the property belonging to the first respondent Municipality.

3. In response to the notice of this Court, a counter affidavit has been filed on behalf of the first respondent, in which the following is stated in paragraph No.4, which is extracted hereunder:

"I submit that earlier one S.Samuthiravel had filed a writ petition in W.P.(MD)No.2251 of 2012 stating as if he was running a two wheeler cart stand in the name and style of "Senthoor Vagana Kappagam" and prayed for writ of Mandamus forbearing us from interfering with his running of the cart stand. This Hon'ble Court by order dated 02.07.2014 directed us to pass orders based on the representation of the 2nd respondent dated 20.02.2012. We considered the representation of the 2nd respondent and rejected the same. We have directed the second respondent to remove the two wheeler stand by our proceedings in Na.Ka.No.308/2012/F1, dated 17.12.2014."

4. Although it appears that the action to remove the two wheeler stand was taken up by proceedings of the first respondent as early as on 17.12.2014, this Court is unable to appreciate as to how the first respondent is allowed the said two wheeler cart stand run by the second respondent for all these years without any licence. In any case, it is now disclosed in the counter affidavit that the action is being taken against the second respondent to remove the cart stand run by the second respondent.

5. Recording the averments made in the counter affidavit and also the submissions made on behalf of the first respondent, the first respondent is directed to remove the two wheeler stand of the second respondent in pursuance of their proceedings dated 17.12.2014 within a period of one week from the date of receipt of a copy of this order.

6. With the above direction, the Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (T&P)

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

Sub Assistant Registrar (CS-I)



To

The Commissioner,
Sattur Municipality,
Sattur Municipal Office,
Sattur, Virudhunagar District.

+ 1 CC TO Mr.M.KANNAN, ADVOCATE IN SR No. 81536
+ 1 CC TO Mr.K.K.SENTHIL, ADVOCATE IN SR No. 81744

SSL

TE/SKN/SAR-1 : 27/09/2018 : 3P/4C

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