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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.07.2018

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THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD) Nos.6045 and 7779 of 2014

and

WMP(MD)Nos.1 and 1 to 3 of 2014

C.Perumal

... Petitioner in both WPs

-Vs-

Nagercoil Municipality,
Represented by its Commissioner,
Nagercoil,
Kanyakumari District.

... Respondent in both WPs

Prayer in WP(MD)No.6045 of 2014: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to remove the garbage bin placed before the petitioner's shop and consequently forbear respondent from dumping filth and garbage before the petitioners shop namely Shri Prabha Tea, Coffee Stall at Anna Bus Stand, Nagercoil, Kanya Kumari District within the time frame stipulated by this Court.

Prayer in WP(MD)No.7779 of 2014: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to the impugned order in Na.Ka.No.19333/2014/A3 dated 15.04.2014 on the file of the respondent and quash the same as illegal.

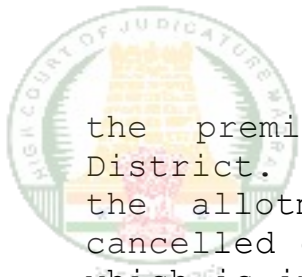
For Petitioner : Mr.T.Lajapathy Roy
For Respondent : Mr.R.Aathimoola Pandian
in both WPs

COMMON ORDER

Since the issue involved in both the writ petitions are interlinked, they are disposed of by way of this common order.

2.These writ petitions have been filed, to issue a Writ of Mandamus, directing the respondent to remove the garbage bin placed before the petitioner's shop and consequently forbear respondent from dumping filth and garbage before the petitioner's shop at Anna Bus Stand, Nagercoil, Kanya Kumari District within the time frame stipulated by this Court and for issuance of a Writ of Certiorari to call for the records pertaining to the impugned order in Na.Ka.No.19333/2014/A3 dated 15.04.2014 on the file of the respondent and quash the same as illegal, respectively.

3.It is the case of the petitioner in WP(MD)No.7779 of 2014, that the petitioner was given license to run Tea shop only to install a petty shop and allotted a space of 6 X 4 Sq.fts within



the premises of the Anna Bus Stand Nagercoil, Kanyakumari District. By order in Na.Ka.No.19333/2014/A3, dated 15.04.2014, the allotment of the land in favour of the petitioner was cancelled on the ground of violations of conditions for allotment, which is impugned herein.

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4.It is seen that as per the original allotment, the license was granted subject to certain conditions. The impugned order is challenged before this Court on the ground that it is in violation of principles of natural justice and that the petitioner is put to great loss by depriving his fundamental rights provided under Articles 14 and 19 of the Constitution of India.

5.Be that as it may, the learned Counsel for the respondent, on instructions, submitted that the petty shop allotted to the petitioner inside the Anna Bus Stand, Nagercoil was removed by the respondent Municipality and the respondent has decided not to give license to any one. It is further stated that in view of the policy decision of the respondent Municipality not to allow any petty shop in the bus stand, the writ petitioner, who has been evicted from the premises, cannot seek any remedy before this Court, since the prayers in the both the writ petitions have become infructuous.

6.The impugned order, of course, is an order, cancelling the permission, which was granted earlier to the petitioner. It is further stated that pursuant to the impugned order, the petitioner was evicted from the place and that the respondent Municipality has taken a policy decision not to grant any license to any one for temporary shops within the Bus Stand. Since the petitioner is not carrying on any business there and the said shop had already been vacated, the prayers of the petitioner, in both the writ petitions have become infructuous.

7.Under these circumstances, both the writ petitions are dismissed as infructuous. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

+1cc to Mr.T.Lajapathy Roy, Advocate Sr.No.70751

DSK

VB/PN/SAR1/11.07.2018/2P/2C