



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.11.2018

CORAM:

WEB COPY

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.22708 of 2018

and

W.M.P(MD)No.20599 & 20600 of 2018

Nellai District Road Transport Labour Society,
Reg. No.1201/TVL,
Rep. by its President,
Micheal Raj

... Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.Thisayanvilai Town Panchayat,
Rep. by its Executive Officer,
Thisayanvilai,
Tirunelveli District.

3.The District Collector,
Thoothukudi District,
Thoothukudi.

4.The Junior Engineer,
Tamil Nadu Electricity Board,
Thisayanvilai,
Tirunelveli District.

.... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, to call for the impugned order, dated 09.11.2018 under Reference Na.Ka.No.143/2017 passed by the second respondent and quash the same as illegal and devoid of merits.

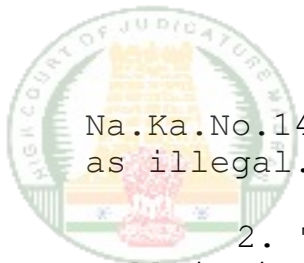
For Petitioner : Mr.S.Palani Velayutham

For RR 1 & 3 : Mr.S.Dhayalan,
Government Advocate.

For R - 2 : Mr.M.Rajarajan,
Government Advocate.

ORDER

This writ petition has been filed seeking a writ of Certiorari, to call for the impugned order, dated 09.11.2018 in



Na.Ka.No.143/2017 issued by the second respondent and quash the same as illegal.

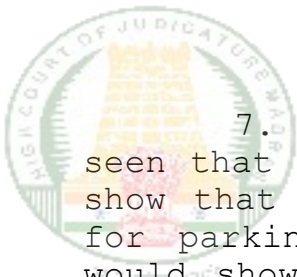
2. The case of the petitioner is that he is the President of Nellai District Road Transport Labour Society and the members of the said Society are running 45 maxicabs being operated in Survey No.483/3 situated at Arasur Village, which consists of 1 acre 95 cents. The said property belongs to the concerned Thisayanvilai Town Panchayat.

3. The petitioner contended that the petitioner's Society originally operated their parking place opposite to Thisayanvilai Bus stand in the main road 20 years back. Subsequently, as per the direction of the Panchayat Officials, they have been permitted to shift the place in the present premises and a resolution was passed by the concerned Town Panchayat on 06.09.2012, who has given permission to operate the disputed property as the parking stand of the members of the registered Society and the same will be developed into a parking site for the maxicabs and a sum of Rs.7,95,000/- was alleged to have been allotted for the development of the said land by making superstructure for the maxicab stand. Since the second respondent did not have sufficient funds for improving the said land, the petitioner's Association themselves have taken efforts and levelled the earth and started it using as a parking stand and they have also paid consumption charges for parking their vehicles. To their shock and surprise, an impugned order, dated 09.11.2018 has been issued by the second respondent, wherein the members of the petitioner's Society were instructed to vacate the premises from 12.11.2018 onwards and if they failed to do so, necessary police action will be taken against them for evicting the said premises.

4. The learned counsel appearing for the petitioner contended that the petitioner's Society have not been given any opportunity of hearing and also not given sufficient time for vacating the said place and within three days, they are not in a position to vacate the said place. The learned counsel appearing for the petitioner further contended that the petitioner's Society has also given plea for alternative site.

5. Mr.M.Rajarajan, learned Government Advocate appearing for the second respondent contended that since in Survey No.483/3, a scheme has been announced by the Honourable Chief Minister and accordingly, for the year 2018-2019, one crore has been allotted for constructing a Community Hall for multi-purpose and the said order has been issued by the higher officials and they have also been going to do Boomi pooja tomorrow ie., on 14.11.2018 and in order to conduct the said pooja, the members of the maxicab stand were asked to vacate the said stand.

6. Heard the learned counsel appearing on either side and perused the materials available on record.



7. On going through the materials available on record, it is seen that the petitioner's Society has not produced any document to show that they have been permitted to occupy the said vacant land for parking their vehicles. The averments made in the affidavit would show that the Panchayat President and its Executive Officer gave an undertaking to them to operate the disputed property as the parking stand of the members of the registered Society. Based on the oral instructions, the petitioner's Society levelled the ground and converted the said place into a parking stand. No written permission has been granted to the petitioner's Society and also no amount has been sanctioned for developing the said land for making superstructure for the maxicab stand. Now the Government has taken a policy decision to allot the same for constructing a multi-purpose Community Hall for the general public belonging to the said Village and the said proposals have been communicated to the concerned authorities and sufficient funds have been allotted and constructions are yet to be started. The Bhoomi Pooja is to be held on tomorrow and necessary steps have been taken by the Executive Officer regarding the said construction.

8. In view of the same, since the Executive Officer has not given any breathing time for the said maxicab owners to vacate the said place and notice has been issued on 09.11.2018 and within three days ie., 12.11.2018, the petitioner's Society were asked to vacate the said premises, this Court directs the Executive Officer of the said Panchayat to give time till 30.11.2018 to the petitioner's Society to vacate the said place and hand over the same to the Executive Officer. It is also made clear that the Executive Officer can proceed with Boomi Pooja, which is scheduled to be held on 14.11.2018, without making any intervention to the functioning of the maxicab stand till 30.11.2018 and if necessary, police protection can be called upon. The Executive Officer is also directed to consider the plea of alternative site for the petitioner's Society in accordance with law, if any vacant site is available in the Town Panchayat.

9. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-IV)



ps

To

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Executive Officer,
Thisayanvilai Town Panchayat,
Thisayanvilai,
Tirunelveli District.

3.The District Collector,
Thoothukudi District,
Thoothukudi.

4.The Junior Engineer,
Tamil Nadu Electricity Board,
Thisayanvilai,
Tirunelveli District.

+1cc to Mr.S.Palani Velayutham, Advocate in SR No.95062

+1cc to Spl Government Pleader, SR No.95199

W.P (MD) No.22708 of 2018

NM/SV/SAR IV/14.11.18/4P/7C.