

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2019

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.Nos.29321 and 31656 of 2018
and
W.M.P.Nos.34266, 36899 and 36903 of 2018

W.P.No.29321 of 2018

C.Devendra Prasad ... Petitioner

Vs.

1. The Commissioner,
Corporation of Chennai,
Chennai - 3.

2. Assistant Revenue Officer,
Zone 9, Division 122,
Chennai Corporation,
No.1, 4th Cross Street, Lake Area,
Valluvar Kottam Back Side,
Nungambakkam, Chennai - 34.

3.Rabiya Basheer Ali

4.Prasanth,
Murugan Hardware,
Old No.157, New No.518,
T.T.K.Road, Ground Floor,
Alwarpet, Chennai - 18.

.. Respondents

W.P.No.31656 of 2018

A.Ramprasad

.. Petitioner

Vs.

1.The Commissioner,
Corporation of Chennai,
Chennai - 7.

2.The Assistant Commissioner,
Chennai Corporation,
Zone No.IX, No.1, Lake Area,
4th Cross Street, Nungambakkam, Chennai - 34.

3.Rabiya

4.C.Devendra Prasad

.. Respondents

W.P.No.29321 of 2018: Petition filed under Article 226 of the Constitution of India praying for issuance of writ of mandamus directing the first and second respondents to take action against the third respondent and her sub-tenant, the fourth respondent carrying on the hardware business in the name and style of Murugan Hardwares without license in the shop in property bearing Old No.157, New No.518, T.T.K.Road, Alwarpet, Chennai - 18.

W.P.No.31656 of 2018: Petition filed under Article 226 of the Constitution of India praying for issuance of writ of certiorarified mandamus to call for the records relating to the impugned order dated 10.11.2018 issued under Section 379 A of the Chennai City Municipal Corporation Act, 1919 passed by the second respondent, quash the same and consequently direct the respondents 1 and 2 to grant licence to the petitioner to carry on hardware business at Old No.157, New No.518, T.T.K.Road, Alwarpet, Chennai - 18.

For Petitioner .. Mr.Inamdar Ameenur Rahman
in W.P.No.29321 of 2018

Mr.N.Manokaran
in W.P.No.31656 of 2018

For Respondents

.. M/s.Karthika Ashok for R1 & R2
in W.P.No.29321 of 2018
No appearance for R3 and R4
in W.P.No.29321 of 2018

Mr.R.Arunmozhi for R1 and R2
in W.P.No.31656 of 2018
Mr.Inamdar Ameenur Rahman
for R4 in W.P.No.31656 of 2018
No appearance for R3
in W.P.No.31656 of 2018

COMMON ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner in W.P.No.31656 of 2018, claiming to be a tenant of the third respondent, has come forward to file this writ petition challenging the action taken by the second respondent.

2.The petitioner in W.P.No.29321 of 2018, who is the fourth respondent in W.P.No.31656 of 2018, has filed the writ petition seeking a direction to the first and second respondents to take action against the third respondent and her sub-tenant, the fourth respondent carrying on the hardware business in the name and style of Murugan Hardwares without license in the shop in property bearing Old No.157, New No.518, T.T.K.Road, Alwarpet, Chennai - 18.

3.For the sake of convenience, the parties are referred to as per their ranks in W.P.No.31656 of 2018.

4.From the typed set of papers filed by the learned counsel appearing for the fourth respondent, it appears that the said respondent is the owner of the premises in question. The fourth respondent has already filed a petition before the Rent Control Court for eviction. The third respondent has also challenged the status of the tenant as against the fourth respondent. We are dealing with a case in which the third respondent has unlawfully inducted the petitioner as tenant. In such view of the matter, we are of the view that the writ petition itself is not maintainable on two grounds. Firstly, the petitioner is not the lawful tenant of the premises in question under the fourth respondent, who is the landlord. Secondly, as of now, there is no licence given by respondents 1 and 2 for running the business, though an application is made to the aforesaid authorities while doing the business.

5. In such view of the matter, we are inclined to dispose of the writ petition by permitting the petitioner to be in the premises in question for a period of four months starting from 01.02.2019. Thus, by the end of May, 2019, the vacant possession will have to be handed over to the fourth respondent by the petitioner subject to the condition that the rent will have to be paid directly to the fourth respondent. The pending application of the petitioner will have to be considered by respondents 1 and 2 within a period of two weeks from the date of receipt of a copy of this order and subject to the permission to be granted, the petitioner will be permitted to carry on the business. Therefore, we make it clear that if no permission is granted, the petitioner cannot carry on the business, though the same will not be a bar for him to be in possession of the premises.

6. We also record the fair stand taken by the learned counsel appearing for the fourth respondent about the time to be given. In view of the above, we also make it clear that respondents 1 and 2 shall not reject the application on a technical ground of not giving consent by the fourth respondent. Therefore, respondents 1 and 2 shall consider the application by presuming the consent from the fourth respondent. This observation we make it only for the purpose of enabling the petitioner to continue during the said period as we indicated above and therefore, it cannot be stated that for practical purposes, the fourth respondent has recognised the tenancy and no objection for running the shop.

7. With the above observation and direction, W.P.No.31656 of 2018 stands disposed of. Consequently, W.P.No.29321 of 2018 also disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

सत्यमेव जयते
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

mmi

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To

1.The Commissioner,
Corporation of Chennai,
Chennai - 3.

2.The Assistant Revenue Officer,
Zone 9, Division 122,
Chennai Corporation,
No.1, 4th Cross Street, Lake Area,
Valluvar Kottam Back Side,
Nungambakkam, Chennai - 34.

3.The Assistant Commissioner,
Chennai Corporation,
Zone No.IX, No.1, Lake Area,
4th Cross Street, Nungambakkam, Chennai - 34.

+2 cc to Mr.Inamdar Ameenur Rahman, Advocate, S.R.No.6384

+2 cc to Mr.Inamdar Ameenur Rahman, Advocate, S.R.No.6383

+1 cc to M/s.R.Arunmozhi, Advocate, S.R.No.6402

+1 cc to M/s.N.Manoharan, Advocate, S.R.No.6738

+1 cc to M/s.Karthika Ashok, Advocate, S.R.No.6937

CNR(CO)
SSM(31/01/2019)

W.P.Nos.29321 and 31656 of 2018

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