

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2019

CORAM :

THE HON'BLE MRS.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.34319 of 2018 and

W.M.P.No.39894 of 2018

M.Jailabdeen

.. Petitioner

v.

The Commissioner,
Pollachi Municipality,
Pollachi,
Coimbatore District.

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue of Writ of Certiorarified Mandamus, calling for the records of order in Na.Ka.No.A6/5674/2018, dated 11.12.2018 passed by the respondent herein and quash the same and consequently direct the respondent not to dispossess the petitioner without following due process of law.

For Petitioner : Mr.N.Ponraj

For Respondent : Mr. V.Jayaprakash Narayanan
Govt. Pleader (i/c)

ORDER

(ORDER OF THE COURT WAS MADE BY M.DURAI SWAMY, J.)

The petitioner has filed the above Writ Petition to issue a Writ of Certiorarified Mandamus, to call for the records of order dated 11.12.2018 passed by the respondent, to quash the same and consequently direct the respondent not to dispossess the petitioner without following due process of law.

2. It is the case of the petitioner that he is a lessee under the respondent-Municipality in respect of a shop measuring an extent of 15 X 10 feet. According to the petitioner, he is running Broiler and Mutton Shop in the said place by putting up construction. The respondent, by order dated 11.12.2018, called upon the petitioner to hand over vacant possession of the said leasehold land, since the same is required for expansion of road. Challenging the said order, the petitioner has filed the above Writ Petition.

3. The respondent filed their counter wherein it has been stated that the leasehold had expired on 31.03.2019 and that the petitioner

was also allotted alternate land. However, he was not willing to take the said alternate land. Further, the respondent has stated that the Municipality issued notice dated 11.12.2018 calling upon the petitioner to vacate and deliver vacant possession of the land. The petitioner challenged the said notice and this Court gave liberty to the respondent to issue show cause notice and proceed in the matter. Pursuant to the orders of this Court, the respondent issued a notice dated 18.02.2019 to the petitioner to vacate and deliver vacant possession of the land, which is required for expansion of road. On 26.02.2019, the petitioner sent a reply requesting the respondent to allot alternate vacant site behind the land, which he is occupying now. Considering the request made by the petitioner, the respondent allotted shop No.15 in 'A' Block. However, the petitioner was not willing to take the said shop.

4. Since the land was required for expansion of the road and that the leasehold had also come to an end on 13.03.2019, we do not find any reason to interfere with the order dated 11.12.2018.

5. The learned counsel appearing for the petitioner submitted that the respondent may be directed to refund the Earnest Money

Deposit (EMD) to the petitioner. Even in the counter filed by the respondent, the Commissioner has stated that if the petitioner is not willing to accept the alternate place and failed to occupy the shop, the respondent will refund the EMD and other eligible amount to the petitioner and take possession of the property for expansion of the road.

6. In view of the said averment, since the petitioner is not going to occupy the alternate shop, the respondent shall refund the amount as stated in the counter affidavit to the petitioner.

With these observations, the Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

(V.K.T., CJ.) (M.D., J.)

03.07.2019

Index : Yes/No

Speaking Order/Non Speaking Order

Rj

To

The Commissioner,
Pollachi Municipality,
Pollachi,
Coimbatore District.

THE HON'BLE CHIEF JUSTICE
AND
M. DURAISWAMY,J.

Rj



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