



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.09.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.(MD) Nos.19089, 19090, 19093, 19095, 19096, 19097, 19099, 19104,
19106, 19109, 19117, 19147, 19150, 19151, 19154, 19155, 19159,
19163, 19165, 19171, 19172, 19180, 19184, 19190, 19192, 19195 and
18995 of 2019
and W.M.P.(MD) Nos.15438 and 15441 of 2019 in W.P.(MD) No.19089 of
2019
and W.M.P.(MD) Nos.15439 and 15440 of 2019 in W.P.(MD) No.19090 of
2019
and W.M.P.(MD) Nos.15442 and 15443 of 2019 in W.P.(MD) No.19093 of
2019
and W.M.P.(MD) Nos.15444 and 15446 of 2019 in W.P.(MD) No.19095 of
2019
and W.M.P.(MD) Nos.15445 and 15447 of 2019 in W.P.(MD) No.19096 of
2019
and W.M.P.(MD) Nos.15449 and 15450 of 2019 in W.P.(MD) No.19097 of
2019
and W.M.P.(MD) Nos.15452 and 15453 of 2019 in W.P.(MD) No.19099 of
2019
and W.M.P.(MD) Nos.15454 and 15455 of 2019 in W.P.(MD) No.19104 of
2019
and W.M.P.(MD) Nos.15456 and 15457 of 2019 in W.P.(MD) No.19106 of
2019
and W.M.P.(MD) Nos.15460 and 15461 of 2019 in W.P.(MD) No.19109 of
2019
and W.M.P.(MD) Nos.15473 and 15474 of 2019 in W.P.(MD) No.19117 of
2019
and W.M.P.(MD) Nos.15504 and 15505 of 2019 in W.P.(MD) No.19147 of
2019
and W.M.P.(MD) Nos.15511 and 15512 of 2019 in W.P.(MD) No.19151 of
2019
and W.M.P.(MD) Nos.15513 and 15514 of 2019 in W.P.(MD) No.19150 of
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and W.M.P.(MD) Nos.15515 and 15517 of 2019 in W.P.(MD) No.19154 of
2019
and W.M.P.(MD) Nos.15518 and 15519 of 2019 in W.P.(MD) No.19155 of
2019
and W.M.P.(MD) Nos.15520 and 15521 of 2019 in W.P.(MD) No.19159 of
2019
and W.M.P.(MD) Nos.15524 and 15525 of 2019 in W.P.(MD) No.19163 of
2019
and W.M.P.(MD) Nos.15527 and 15528 of 2019 in W.P.(MD) No.19165 of
2019



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2019
and W.M.P. (MD) Nos.15531 and 15532 of 2019 in W.P. (MD) No.19171 of 2019
and W.M.P. (MD) Nos.15534 and 15535 of 2019 in W.P. (MD) No.19172 of 2019
and W.M.P. (MD) Nos.15536 and 15539 of 2019 in W.P. (MD) No.19180 of 2019
and W.M.P. (MD) Nos.15543 and 15545 of 2019 in W.P. (MD) No.19184 of 2019
and W.M.P. (MD) Nos.15547 and 15549 of 2019 in W.P. (MD) No.19190 of 2019
and W.M.P. (MD) Nos.15550 and 15551 of 2019 in W.P. (MD) No.19192 of 2019
and W.M.P. (MD) Nos.15554 and 15555 of 2019 in W.P. (MD) No.19195 of 2019
and W.M.P. (MD) Nos.15299 and 15303 of 2019 in W.P. (MD) No.18995 of 2019

R.Murugesan	... Petitioner in WP (MD) .No.19089 of 2019
S. Sirajudeen	... Petitioner in WP (MD) .No.19090 of 2019
M. Maruthaiyappan	... Petitioner in WP (MD) .No.19093 of 2019
A.Selvakumar	... Petitioner in WP (MD) .No.19095 of 2019
M.Suresh	... Petitioner in WP (MD) .No.19096 of 2019
G. Banumathy	... Petitioner in WP (MD) .No.19097 of 2019
A.Kumaresan	... Petitioner in WP (MD) .No.19099 of 2019
D.J. Kaliyamoorthi	... Petitioner in WP (MD) .No.19104 of 2019
P. Ganesan	... Petitioner in WP (MD) .No.19106 of 2019
P. Kaliyappan	... Petitioner in WP (MD) .No.19109 of 2019
S.Mohamed Ismail	... Petitioner in WP (MD) .No.19117 of 2019
R.V.Ramesh	... Petitioner in WP (MD) .No.19147 of 2019
C.Palanisamy	... Petitioner in WP (MD) .No.19150 of 2019
R.Annamalai	... Petitioner in WP (MD) .No.19151 of 2019
M.Sumathi	... Petitioner in WP (MD) .No.19154 of 2019
L.M.Rajavel	... Petitioner in WP (MD) .No.19155 of 2019
S.Arumugam	... Petitioner in WP (MD) .No.19159 of 2019
K.Krishnamoorthy	... Petitioner in WP (MD) .No.19163 of 2019
P.Selvaraj	... Petitioner in WP (MD) .No.19165 of 2019
Uma	... Petitioner in WP (MD) .No.19171 of 2019
A.Maheswari	... Petitioner in WP (MD) .No.19172 of 2019
A.Bowsiya Shakila Banu	...Petitioner in WP (MD) .No.19180 of 2019
P.Periyasamy	... Petitioner in WP (MD) .No.19184 of 2019
P. Chinraj	... Petitioner in WP (MD) .No.19190 of 2019
P.Saravanan	... Petitioner in WP (MD) .No.19192 of 2019



M.Kulanthaiavel

A.Sundaram

... Petitioner in WP(MD).No.19195 of 2019

... Petitioner in WP(MD).No.18995 of 2019

- Vs. -

The Commissioner,

Tiruchirappalli Corporation, Trichy

... Respondent in all cases

Common Prayer : Writ Petitions are filed under Article 226 of the Constitution of India, praying this Court Calling for the records relating to the proceedings of the Impugned orders dated 16.08.19 in Na.Ka.No. A1/4721/2018 (Ariya) in respect of the shop Nos. 338/12, 327/1, 311/19, 293/1A, 312/20, 311/19, 322/30, 306/14, 328/2, 303/11, 333/7, 395/3, 313/21, 321/29, 341/15, 305/13, 315/23, 332/6, 314/22, 326/34, 343/17, 339/13, 323/31 and 324/32, 298/5 and 297/6, 310/18, 344/18, 302/10 and 325/33, and the assessment numbers 2002257, 2002246, 2002230, 2002231, 2002212, 2002239, 2002241, 2002225, 2002247, 2002223, 2002252, 2002214, 2002232, 2002240, 2002260, 2002224, 2002234, 2002251, 2002233, 2002245, 2002262, 2002258, 2002242 and 2002243, 2002216 and 2002217, 2002229, 2002263, 2002221 and 2002244, on the file of the respondent and quash the same respectively.

For Petitioner : Mr.G.Prabhu Rajadurai
(in All cases)

For Respondent : Mr.N.S.Karthikeyan
(in All cases)

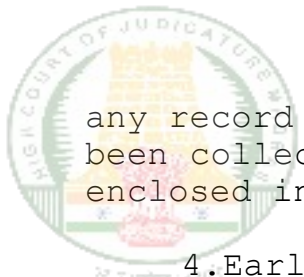
COMMON ORDER

[Common Order of the Court was made by T.S.SIVAGNANAM, J.]

Heard Mr.G.Prabhu Rajadurai, learned counsel appearing for the petitioners and Mr.N.S.Karthikeyan, learned Standing Counsel appearing for the respondent.

2.By consent of both sides, these Writ Petitions are taken up for final disposal. Since these Writ Petitions arise out of the same issue, they are all taken up together and being disposed of by this common order.

3.The Writ Petitioners have approached this Court, challenging the notices dated 16.08.2019 and the impugned notices are identical. The petitioners were permitted to occupy a small extent of road margin for the purpose of carrying on wholesale of onion and trading in gunny bags. It is not clear as to when they were permitted to occupy and when licenses were issued and in whose name licenses were issued etc. The respondent Corporation has not been able to produce



any record to that effect, but the fact remains that license fee has been collected from the petitioners and copies of the same have been enclosed in the typed set of papers.

4. Earlier 13 petitioners have approached this Court and filed W.P.(MD) Nos.22375 of 2018, seeking to quash the eviction notice dated 26.10.2018. The Division Bench, to which one of us (The Hon'ble Mr. Justice KRISHNAN RAMASAMY) was a party, vide order dated 02.11.2018, directed the 13 petitioners to give their explanations to the notice with a further direction to the respondent Corporation to consider the same within a time frame and till such time directed that no coercive action should be taken against the 13 petitioners. The 13 petitioners have given their explanation on 10.01.2019, after which the impugned orders were issued, after providing them a personal hearing on 09.03.2019, calling them to vacate the premises.

5. The learned counsel appearing for the petitioners vehemently would contend that the impugned notice is a verbatim reproduction of the earlier eviction notice dated 26.10.2018. Further, it is submitted that the petitioners would qualify as street vendors and the provisions of the Street Vendors Act would come to their aid and assistance and therefore, they should not be evicted.

6. Mr. N.S. Karthikeyan, learned Standing Counsel appearing for the respondent would submit that knowing fully well that the petitioners have no right to continue to occupy the road margin, all of them organized themselves and formed a new Onion Market and photographs of the Onion Market have been produced before this Court. From the photographs, we could see that pucca shops were constructed in the new Onion Market. It is further submitted that four of the Writ Petitioners have established shops in the new market. It is further submitted that the purpose for which the land is required has been clearly set out and the petitioners have no indefeasible right to remain in occupation.

7. After elaborately hearing the learned counsel appearing for the parties, we find that the impugned order is not a verbatim reproduction of the earlier notice dated 26.10.2018. In fact, the representation given by the petitioners have been considered and after affording an opportunity of personal hearing, the impugned orders have been issued. Obviously, the respondent Corporation cannot be expected to write a judgment or order as that of a Court or Tribunal. The purpose for which the land is required has been clearly set out. The petitioners are not lessees and they were permitted to occupy a small extent of the road margin to carry on their trade activities. The photographs produced by Mr. N.S. Karthikeyan, learned Standing Counsel would show that pucca shops with foldable gates, storage area etc., have been built. One of the shop's wall is the compound wall of the Sub Jail, Trichirappalli. If license fee has been collected from the petitioners, it is rather doubtful as to whether they would fall



within the definition of street vendors.

8. Be that as it may, we are of the considered view that there is no vested right for the petitioners to continue in possession of shops in the road margin and as such they cannot continue to remain in possession. Therefore, we find no ground to interfere with the impugned orders.

9. At this juncture, the learned counsel appearing for the petitioners submitted that reasonable time may be granted to vacate and handover the premises in their occupation. Mr. N. S. Karthikeyan, learned Standing Counsel for the respondent would submit that the process of eviction has been started during August, 2018 and even after lapse of one year, the Municipal Corporation is unable to remove the petitioners, which is an impediment for the implementation of the Smart City Project.

10. The fact remains that many of the traders have move out to the new market and out of 58 traders, who along with the petitioners were trading in the road margin, 23 have already moved out. It is stated that four among the Writ Petitioners have already secured shops in the new market and if that is so, those petitioners should not be permitted to pursue parallel remedies.

11. In any event, considering the fact that the petitioners require reasonable time, we grant time to the petitioners to vacate the premises till 27.11.2019 and they shall handover vacant possession of the area to the respondent Corporation on 28.11.2019. The petitioners shall file an affidavit of undertaking to the respondent/competent authority on or before 20th September, 2019, unconditionally agreeing to vacate and handover possession to the respondent Corporation on 28.11.2019. In the event of any the petitioners do not file an affidavit of undertaking as directed by this Court on or before 20.09.2019, the respondent Corporation shall evict those petitioners and take over possession of the premises immediately and if necessary with police aid.

12. In the result, the Writ Petitions are dismissed with the above directions. Consequently, connected Miscellaneous Petitions are also dismissed. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)



To
The Commissioner,
Tiruchirappalli Corporation, Trichy

+1 CC to M/s.N.S.KARTHIKEYAN, Advocate (SR-86417[F] dated 12/09/2019)

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate, SR-86099

W.P. (MD) No.19089 of 2019
09.09.2019

sj
JMN(19.09.2019) 6P : 4C