



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.[MD]No.19529 of 2019

and W.M.P.[MD]Nos.15985, 15986 & 15987 of 2019

Vellaiammal

.. Petitioner

Vs.

1.The Commissioner of Corporation,
Madurai Corporation, Madurai.

2.The Assistant Commissioner of Corporation,
Madurai Corporation, Madurai.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent in Ma.Va.2/Ma.Sa.1/010504/19 dated 26.08.2019 and quash the same and consequently forbearing the respondents from evicting the petitioner from her petty shop at No.318, Near Wakf Board College, Opposite to Electricity Board, K.K.Nagar Main Road, Madurai.

For Petitioner : Mr.Niranjana S.Kumar
For Respondents : Mr.S.Chellapandian

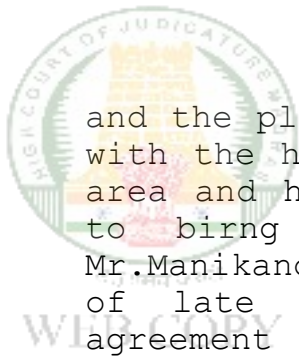
O R D E R

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

This writ petition has been filed by the petitioner praying for issuance of a Writ of Certiorarified Mandamus, to quash the eviction notice issued by the respondent Corporation dated 26.08.2019 and remove the encroachment in the pathway within three days from the date of receipt of the impugned orders.

2.We have heard Mr.Niranjana S.Kumar, learned Counsel appearing for the writ petitioner and Mr.S.Chellapandian, learned Standing Counsel appearing for the respondent Corporation.

3.It is the submission of the learned Counsel for the petitioner that license was granted to Smt.Karthi Manian, wife of S.Manivan on 25.07.1984 to establish a petty shop in K.K. Nagar area

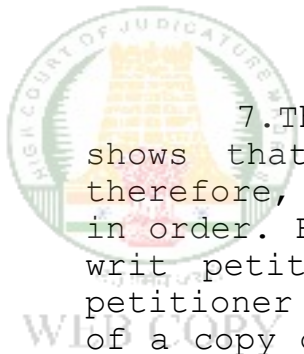


and the place was also earmarked. It is submitted that the licensee with the help of her husband was carrying on trade in the licensed area and her husband's friend Mr.Manikandan, also joined with them to bring more investment and carry on business. The said Mr.Manikandan passed away and the licensee Smt.Karthi and the wife of late Manikandan Smt.Velliammal entered into a partnership agreement dated 01.06.1998. It is submitted that based on the said partnership agreement, the said Velliammal was carrying on the business in the shop.

4.It is submitted that the officials of the respondent Corporation had visited the premises and handed over a form to be filled up which was submitted by Mr.M.Vinoth Kumar, son of Smt.Karthi Maniyan. In the said form it is mentioned that the licensee is Karthi Maniyan. By referring to the said documents it is submitted by the learned Counsel that the reasons for evicting the petitioner as mentioned in the impugned notice dated 26.08.2019 is factually incorrect as Smt.Karthi Maniyan is the licensee and Vinoth Kumar is her son. Therefore, it is submitted that the order of eviction calls for interference.

5.The first aspect we noted is that the petitioner in this writ petition Smt.Velliammal is the wife of late Manikandan, and admittedly she is not the licensee. As mentioned earlier, the licensee was Smt.Karthi Maniyan, wife of Maniyan who has been granted the license to run the shop vide order dated 25.07.1984. Perusal of the order shows that the license is for a period of one year expiring on 31.03.1985. Admittedly, there is no order renewing the license in favour of Smt.Karthi Maniyan.

6.The petitioner's contention is that regularly the Corporation of Chennai has been receiving the license fee and receipts have been issued and there are no arrears and payments are made up to date. This plea cannot in any manner advance the case of the writ petitioner because admittedly she is not a licensee. Apart from that, the licensee Smt.Karthi Maniyan was not entitled to transfer the license or get into a partnership agreement with any third party. The license clearly states that it is subject to the conditions contained therein. The license granted by the respondent Corporation in favour of Smt.Karthi Maniyan is not transferable. In the absence of any written order renewing the license, mere remittance of fee by the petitioner with the Corporation of Chennai cannot in any manner improve the case of the petitioner who is not a licensee. Apart from that the entire proceedings for eviction of the occupation of the footpaths and road margins was pursuant to the directions issued by the Division Bench of this Court in W.P.[Md] No.12188, 4339 & 13026 of 2019 dated 02.07.2019. In the said writ petitions, the Court came to the conclusion that the licensee has no right to transfer the license, which she has done thereby violating the conditions of licence.



7.The fact that Velliammal is the writ petitioner clearly shows that she is the person who is running the business and therefore, the reasons assigned in the impugned order is perfectly in order. For the above reasons, we find no ground to entertain this writ petition. Accordingly, the writ petition is dismissed. The petitioner is granted eight [8] weeks time from the date of receipt of a copy of this order to comply with the directions issued by the respondent Corporation. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

MR/GNS

To

1.The Commissioner of Corporation,
Madurai Corporation, Madurai.

2.The Assistant Commissioner of Corporation,
Madurai Corporation, Madurai.

+1 CC to M/s.S.CHELLAPANDIAN, Advocate (SR-86093[F] dated
10/09/2019)

+1 CC to M/s.NIRANJAN S. KUMAR, Advocate (SR-86321[F] dated
12/09/2019)

W.P. [MD]No.19529 of 2019
10.09.2019

JM/11.10.2019/3P/5C