

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2020

CORAM :

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.Nos. 13539 of 2012 and 24731 of 2018
and M.P.Nos. 1 & 2 of 2012 in
W.P.No. 13539 of 2012

Dr. Lakshminarayanan ... Petitioner in both Wps

v.

1. The Estate Officer/Tiruvarur Municipal Commissioner,
Tiruvarur Municipality,
Tiruvaur.

2. Tiruvarur Municipality,
Rep. By its Executive Authority,
Tiruvaur.

... Respondents in W.P.No. 13539 of 2012

The Municipal Commissioner,
Tiruvarur Municipality,
Tiruvaur.

... Respondent in W.P.No.24731 of 2018

W.P.No. 13539 of 2012 : Writ Petition filed under Article 226 of the Constitution of India to issue a Certiorari, calling for the records pertaining to impugned communication in FORM - C under Rule 6 of the Tamil Nadu Public Premises (Eviction of Occupants) Rule 1978 as passed by Estate Officer/Tiruvarur Municipality Commissioner/1st respondent dated 08.05.2012 and quash the same.

W.P.No. 24731 of 2018 : Writ Petition filed under Article 226 of the Constitution of India for issuing a Writ of Mandamus directing the respondent to issue license to the petitioner to use 6 feet Arcade connecting with Projection in the 1st Floor of the petitioner hospital for transportation of patients located in two premises bearing Door No.16, Kamalalayam West Bank Street and the premises bearing Door No.31A in Swami Mada Street either by lease or Rental as contemplated under 183(3) of District Municipalities Act by considering the petitioner's representation dated 31.01.2018.

For Petitioner : Mr. Vijayan
for M/s.Karan and Uday

For Respondents : Mr. P. Srinivas

COMMON ORDER

The petitioner has filed the the Writ Petition in W.P.No. 13539 of 2012 to issue a Writ of Certiorari to call for the records pertaining to the impugned communication in FORM - C under Rule 6 of the Tamil Nadu Public Premises (Eviction of Occupants) Rule 1978 as passed by Estate Officer/Tiruvarur Municipality Commissioner/1st respondent dated 08.05.2012 and to quash the same.

2. It is the case of the petitioner that the impugned order has been passed by the 1st respondent without passing an order under section 5 of the Tamil Nadu Public Premises (Eviction of Occupants) Act, which is against the provisions of the Act.

3. When the 1st respondent contemplated action under the Tamil Nadu Public Premises (Eviction of Occupants) Act, he should pass an order under section 5 of the Act before the issuance of notice in Form C under Rule 6 of the Tamil Nadu Public Premises (Eviction of Occupants) Act, 1978.

4. Mr. P. Srinivas, learned counsel appearing for the respondents fairly submitted that the 1st respondent has not passed any order under section 5 of the Act, therefore, the impugned notice dated 08.05.2012 may be set aside and the matter made by remitted back to the 1st respondent for passing an order under section 5 of the Act.

5. Having regard to the submissions made by the learned counsel on either side, since the 1st respondent has not passed any order under section 5 of the Act, the impugned notice dated 08.05.2012 issued in Form C is set aside and the matter is remitted back to the 1st respondent for passing an order under Section 5 of the Act. The 1st respondent is directed to give an opportunity of hearing to the petitioner and pass an order under Section 5 of the Act, in accordance with law, as expeditiously as possible.

6. The petitioner has filed the Writ Petition in W.P.No. 24731 of 2018 to issue a Writ of Mandamus directing the respondent to issue license to the petitioner to use 6 feet Arcade connecting with Projection in the 1st Floor of the petitioner's hospital for transportation of patients located

in two premises bearing Door No.16, Kamalalayam West Bank Street and the premises bearing Door No.31A in Swami Mada Street either by lease or Rental as contemplated under 183(3) of District Municipalities Act by considering the petitioner's representation dated 31.01.2018.

7. Mr. Vijayan, learned counsel appearing for the petitioner submitted that it would be suffice to direct the respondent to consider the petitioner's representation dated 31.01.2018, within a time frame.

8. Having regard to the submission made by the learned counsel appearing for the petitioner, without expressing any opinion with regard to the merits of the case, I direct the respondent to consider the petitioner's representation dated 31.01.2018, and pass orders, on merits and in accordance with law, as expeditiously as possible subject to the outcome of the proceedings pending before the Estate Officer/Tiruvarur Municipal Commissioner, Tiruvarur.

With these observations, the Writ Petition in W.P.No.13539 of 2012 is allowed and the Writ Petition in W.P.No. 24731 of 2018 is disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Rj
To

1. The Estate Officer/Tiruvarur Municipal Commissioner, Tiruvarur Municipality, Tiruvaur.
2. The Executive Authority, Tiruvarur Municipality, Tiruvaur.

+1cc to M/s.Karan and uday, Advocate Sr.37982
+1cc to the Government Pleader Sr.38267

W.P.Nos. 13539 of 2012 and 24731 of 2018
and M.P.Nos. 1 & 2 of 2012 in
W.P.No. 13539 of 2012

nrl[co]
srg 07/12/2020