



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2020

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P. No.15243 of 2013
and M.P.No.1 of 2013

1.S.Mohideen Gani
2.Tajunnisha
3. Jahfar Nisha
4. Sulthana Praveen
5. Yasmin Mariam
{P2-P6 are substituted as LRs of deceased
S.Mohideen Gani as per order dated 03.01.2017
by D.K.K.J in W.M.P.No.37946/2016
in W.P.No.15243 of 2013)

... Petitioners

Versus

1. The Government of Tamil Nadu,
Represented by its Secretary,
Health and Family Welfare Department,
Fort St.George, Chennai 600 009.
2. The Director of Medical Education,
Chennai.
3. The Executive Engineer,
Office of the Public Works Department,
South Zone, Chennai 600 005.
4. The Assistant Executive Engineer,
Building Maintenance Sub Division IV,
Medical Services,
Chennai 600 006.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a Writ of certiorari calling for the records of the fourth respondent bearing க,எண்/உ,செ/பொ,க,ப.உ.ப4/ம,ப/13 dated 19.03.2013 and quash the same.



For Petitioners : Mr.L.Dhamodaran
For Respondents : Ms.K.Bhuvaneswari,
Additional Government Pleader

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ORDER

This Writ Petition is filed, challenging the order dated 19.03.2013 passed by the fourth respondent.

2. The original petitioner, who died pending proceedings, was allotted a shop in Government Peripheral Hospital, Anna Road, K.K.Nagar, Chennai for running a KIOSK. A lease agreement was also entered into for a period of three years commencing from 27.02.2003 and it was renewed for further period of three years permitting to carry on his business. The petitioners state that they had been paying rent till date without any default. While so, a letter dated 20.02.2013 was served on the original petitioner asking him to vacate the premises within a period of one month and inform the same to the fourth respondent. Thereafter, the impugned order dated 19.03.2013 was passed once again calling upon the original petitioner to vacate the premises within a period of one month and to inform the fourth respondent, failing which, he will be forcibly evicted. The said order is now under challenge.

3. Heard the learned counsel for the petitioners and the learned Additional Government Pleader appearing for the respondent and perused the materials available on record.

4. The impugned order is passed without affording an opportunity to the original petitioner to submit his explanation for any allegation that the respondents may have. Admittedly, the rent has been paid promptly by the original petitioner. As he has been running a tea shop, which would be helpful for the patients and visitors, who may visit the hospital, he has to continue there. When there is no specific or definite reason for eviction against the original petitioner, the fourth respondent has got no right to vacate him. The establishment of the KIOSK for unemployed youth itself is an idea conceived by the Government for giving employment. While so, without any valid reasons, non-speaking impugned order has been passed.

5. The learned Additional Government Pleader appearing for the respondents submits that the respondents intend to allot the said shop through public auction. However, the impugned order does not mention about the same. Hence, the impugned order passed by the fourth respondent is liable to be set aside. In case, the respondents are desirous of letting these shops by way of public auction, they can allow the petitioners to take part



in the same. As the impugned order does not have any merits, the same is quashed. Accordingly, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary,
Government of Tamil Nadu,
Health and Family Welfare Department,
Fort St.George, Chennai 600 009.
2. The Director of Medical Education,
Chennai.
3. The Executive Engineer,
Office of the Public Works Department,
South Zone,
Chennai 600 005.
4. The Assistant Executive Engineer,
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+1cc to the Government Pleader Sr.20650
+1cc to Mr.L.Dhamodaran, Advocate Sr.20269

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rsi[col]
srg 09/07/2020