



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **13.03.2020**

CORAM:

THE HONOURABLE JUSTICE C.V.KARTHIKEYAN

W.P. (MD)No.4866 of 2020
and W.M.P. (MD).No.4245 of 2020

J.Edwin Jose

... Petitioner

Vs.

The Colachel Municipality,
represented by its Municipal Commissioner,
Colachel, Kanyakumari District-629251.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondent to remove lock and reopen the petitioner's shop in Shop No.2, Kamaraj Bus Stand, Colachel, Kanyakumari District, within the time frame stipulated by this Court.

For Petitioner	:	Mr.T.Lajapathi Roy
For Respondent	:	Mr.P.Athimoolapandian
		Standing Counsel

O R D E R

The petitioner had filed the present Writ Petition seeking a Mandamus to remove the lock and reopen the shop of the petitioner in Shop No.2, Kamaraj Bus Stand, Colachel, Kanyakumari District.

2. In the affidavit filed in support of this Writ Petition, it had been stated that the respondent viz., the Colachel Municipality, represented by its Municipal Commissioner, had invited a tender for the shop in Kamaraj Bus stand, Colachel, Kanyakumari District. The petitioner participated in the tender. He was the successful bidder for Shop No.2 and according to the learned counsel appearing for the respondent also for shop No.7. With respect to shop No.2, the petitioner had made deposit a sum of Rs.2,00,000/- and had also paid 12 months advance rent amount of Rs.1,68,000/-. It is stated that he is in possession of the shop. However, it is also stated that he is in default in the payment of rent. The petitioner has given various reasons for the same, particularly, that his mother was hospitalized due to kidney problem. It must be mentioned that he was running a Xerox shop and owing to hospitalization of his mother, he was not able to attend the shop



regularly. A notice had been issued to the petitioner on 02.03.2020, informing him that he is in arrears of rent from April 2019 to March 2020 to an amount of Rs.1,98,240/- including sales tax.

3. The learned counsel appearing for the petitioner has today filed an additional affidavit, enclosing a Demand Draft in favour of the Commissioner, Colachel Municipality, dated 12.03.2020, purchased from the Indian Bank. Kolachel Branch, bearing Registration No.964941, for a sum of Rs.1,98,240/-. That effectively shows that the petitioner had paid all the rental arrears upto March 2020.

4. Therefore, a direction is issued to the respondent, to forthwith on or before 17.03.2020, unlock the seal of the Shop No.2 in Kamaraj Busstand, Colachel, Kanyakumari District and handover the key to the petitioner. This order pertains only to Shop No.2 and not to Shop No.7.

5. The learned counsel appearing for the respondent submits that the petitioner was in due in payment of rent for Shop No.7 from April 2017 to March 2020 to a sum of Rs.2,98,702/-. The arrears of that shop may not be a factor to open the shop No.2 on or before 17.03.2020. The learned counsel appearing for the respondent states that the respondent will always have a right to lock the shop if there is arrears in payment of rent. Such procedure can only be adopted following the principles of natural justice.

6. The respondent may receive the demand draft as mentioned above.

7. With the above observations, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-12083[F] dated 17/03/2020)

Order made in
W.P. (MD)No.4866 of 2020
Dated:13.03.2020

TSG

<https://hcservices.ecourts.gov.in/hcservices> MS/EN/SA/DP/4/17/03.2020/2P.2C