



WEB COPY

W.P.(MD)No.17258 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2020

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P. (MD)No.17258 of 2020

and

W.M.P. (MD)Nos.14451 and 14452 of 2020

P.Rajavelu

... Petitioner

Vs.

1.The Commissioner,
Tiruchirappalli City Municipal Corporation,
Bharathidasan Salai,
Tiruchirappalli,
Tiruchirappalli District.

2.The Assistant Commissioner,
Ariyamangalam Zone,
Tiruchirappalli City Municipal Corporation,
Bharathidasan Salai,
Tiruchirappalli,
Tiruchirappalli District.

... Respondents

Prayer : 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 in Na.Ka.No.10429/2017/F1 (Ariya) dated 21.02.2020 passed by the first respondent and quash the same as illegal and consequently, direct the first respondent to conduct fresh enquiry on petitioner's appeal by providing adequate opportunity to the petitioner to produce all the relevant documents for proper disposal of the appeal.

For Petitioner : Mr.G.Mathavan

For Respondents : Mr.N.S.Karthikeyan

ORDER

(Order of the Court was made by N.KIRUBAKARAN,J)

This Writ Petition has been filed challenging the order passed by the first respondent, dated 21.02.2020, by dismissing the appeal filed by the petitioner.

2. It is the case of the petitioner that originally his father was doing business and subsequently, by way of resolution of the Tiruchirappalli Municipal Corporation, dated 29.11.1988, while

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evicting from original place, the petitioner's father and about more than 50 persons have been allotted road margins by the Tiruchirappalli Municipal Corporation at Vellamandi Street. The resolution of the Tiruchirappalli Municipal Corporation, dated 29.11.1988 could not be filed at the time of filing of appeal by the petitioner. Therefore, the appeal has been dismissed by the first respondent. Challenging the said order only, the present Writ Petition has been filed by stating that the appeal has been dismissed merely on the basis of non-production of a copy of resolution of the Tiruchirappalli Municipal Corporation, dated 29.11.1988. However, the resolution is available and therefore, the order passed by the first respondent has to be set aside, so as to enable the petitioner to produce the copy of the resolution of the Tiruchirappalli Municipal Corporation, dated 29.11.1988 and get an order.

3. Heard the learned Counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents and perused the materials placed on record.

4. The Tiruchirappalli Municipal Corporation has got no right to allot the road margins to anybody for the purpose of doing business, without obtaining no objection from the Commissioner of Police as well as approval from the Government. If any act is done, it is illegal. The road margins and platforms are only meant for pedestrians and if road margins and platforms are occupied by the vendors, definitely the people are left with no place to walk and compel to use the road, which ultimately results in road accident. The life of the public should be safeguarded and they should not be put to the risk of their life.

5. As per Section 256 of the Coimbatore City Municipal Corporation Act, 1981(which is also applicable to Tiruchirappalli City Municipal Corporation), no one shall build any wall or erect any fence or other obstruction or projection or make any encroachments in or over any street or any public place, the control of which, is vested in the corporation.

6. Even though the learned Counsel appearing for the petitioner relied upon the resolution of the Tiruchirappalli Municipal Corporation, dated 29.11.1988, by stating that there is an alternate shop allotted by the Trichirappalli Municipal Corporation in favour of his father, a perusal of the resolution would disclose that the petitioner's father's name is not found in the list. When such is the position, the first respondent has rightly dismissed the appeal filed by the petitioner. Therefore, this Court does not find any merit in this Writ Petition. Accordingly, the Writ Petition is liable to be dismissed.



7. Taking into consideration the fact that the petitioner is doing his business for a long time, it is appropriate to grant time for vacating his shop. Accordingly, time is granted to the petitioner till **12.01.2020** to find out alternate place and vacate the shop in question, failing which the respondents shall evict the petitioner with police protection.

8. With the above observations, this Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SSL

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Commissioner,
Tiruchirappalli City Municipal Corporation,
Bharathidasan Salai,
Tiruchirappalli,
Tiruchirappalli District.

2.The Assistant Commissioner,
Ariyamangalam Zone,
Tiruchirappalli City Municipal Corporation,
Bharathidasan Salai,
Tiruchirappalli,
Tiruchirappalli District.

+1 CC to Mr.N.S.KARTHIKEYAN, Advocate (SR-23713[F] dated 02/12/2020)

W. P. (MD) No. 17258 of 2020
01.12.2020

VB (18.12.2020) 3P 4C