



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.12.2020**

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P(MD).No.15006 of 2020
and .M.P.(MD) No.12643 of 2020
(Through Video Conference)

Poongothai

.. Petitioner

Vs.

1) The District Collector,
Dindigul District, Dindigul.

2) The Assistant Director of Town Panchayat,
Dindigul, Dindigul District.

3) The Executive Officer,
Natham Town Panchayat,
Natham, Dindigul District.

4) A.Saravanakumar

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned notice dated 05.10.2020 in Na.Ka.No.05/2020 and quash the same, consequently direct the 3rd and 4th respondents to hand over the key of petitioner's general Small Shop / Palnokku Siriya Kadai situated within the campus of New Bus stand, Natham forthwith and also direct the 3rd and 4th respondents to allow the petitioner to run bakery in the said shop by considering petitioner's representation dated 16.10.2020.

For Petitioner : Mr.Mark J Jackson

For RR 1 & 2 : Mr.C.Ramar,

Additional Government Pleader

For R-3 : Mr.P.Mahendran,

Additional Government Pleader

O R D E R

This writ petition has been filed challenging the order dated 05.10.2020 passed in Na.Ka.No.05/2020 and quash the same and for a consequential direction to the 3rd and 4th respondents to hand over the key of petitioner's general Small Shop / Palnokku Siriya Kadai



situated within the campus of New Bus stand, Natham forthwith and also direct the 3rd and 4th respondents to allow the petitioner to run bakery in the said shop by considering petitioner's representation dated 16.10.2020.

2. Mr.C.Ramar, learned Additional Government Pleader accepts notice for the respondents 1 and 2 and Mr.P.Mahendran, learned standing counsel accepts notice for the third respondent. By consent of both sides, this writ petition is taken up for final disposal at the stage of admission itself.

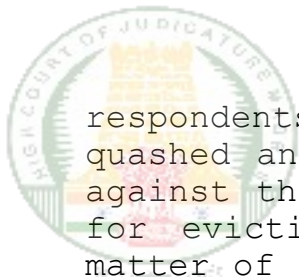
3. By an order dated 22.10.2020, in W.M.P.(MD) No.12643 of 2020, this Court issued the following interim directions:-

- "(i) The petitioner shall pay Rs.2,25,000/- (Rupees Two lakhs Twenty Five Thousand only) to the third respondent by way of Demand Draft within a period of two weeks and
- (ii) On such payment, the second and third respondents shall hand over the key of the shop allotted to the petitioner within the campus of New Bus stand, Natham, forthwith".

4. It is now represented by the learned standing counsel appearing for the third respondent that the petitioner has complied with the said directions and instead of paying Rs.2,25,000/-, the petitioner has paid Rs.2,50,000/- and on instructions, he would submit that the excess amount would be adjusted in the future. He would further contend that the petitioner has sublet the premises to a third party named Shivaji and he seeks a direction from this Court to grant liberty for the third respondent to initiate legal action against Mr.Shivaji as well as the petitioner for eviction on the ground of subletting in accordance with law.

5. Under the impugned order dated 05.10.2020, the petitioner was called upon to pay R.4,63,838/- as arrears of rent. But, however, according to the petitioner, only a sum of Rs.2,25,000/- was payable towards arrears of rent, which has now been paid by the petitioner, subsequent to the interim directions issued by this Court on 22.10.2020. Since there are disputed questions of fact involved and in view of the submissions made by the learned standing counsel for the third respondent that, the present occupant of the property is one Shivaji, who according to them, has been handed over possession unauthorizedly by the petitioner, and he will also have to be heard before any order of eviction is passed by the third respondent.

6. Since the petitioner has paid the admitted amount of Rs.2,25,000/- to the third respondent and in view of the contention of the third respondent that the property is presently under the occupation of a third party by name Shivaji, this Court is of the considered view that the interest of the petitioner as well as the



respondents will be adequately protected, if the impugned order is quashed and the third respondent is permitted to take legal action against the petitioner as well as the third party by name Shivaji, for eviction, in respect of the property, which is the subject matter of this writ petition. However, the same has to be done only in accordance with law and the petitioner must also be given adequate opportunity to raise all objections available to her under law with regard to the claim made by the third respondent. No useful purpose would be served if this writ petition is kept pending when it is the contention of the petitioner that the property is presently occupied unauthorizedly by a subtenant of the petitioner by name Shivaji.

7. For the foregoing reasons, the impugned order dated 05.10.2020 is hereby quashed. However, liberty is granted to the petitioner to initiate legal action against the petitioner as well as the third party by name Shivaji for eviction as well as for arrears of rent, if any, in accordance with law and the petitioner shall also be given liberty to raise all objections available to her under law with regard to the claim made by the petitioner.

8. With the aforesaid directions, this writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected W.M.P.(MD) No.12643 of 2020 is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS-II)

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 District Collector,
Dindigul District, Dindigul.
 - 2) The Assistant Director of Town Panchayat,
Dindigul, Dindigul District.
 - 3) The Executive Officer,
Natham Town Panchayat, Natham, Dindigul District.
- +1 CC to M/s.GP (SR-25437[F] dated 14/12/2020)

Order made in
W.P (MD) .No.15006 of 2020
Dated:11.12.2020

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<https://hcservices.courts.gov.in/hcservices/> MS/VP/17.12.2020/ 3P.5C