

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.05.2021

CORAM

THE HON'BLE Mr.JUSTICE R.SURESH KUMAR

Writ Petition No.11279 of 2021

Tiruppur Municipality Shop Merchants Association,
Registration No.37/1991
rep. By its President - K.S.Paramasivam
No.478 Bharathi Complex, Avinasi Road
Tiruppur 641 602.

...Petitioner

Vs

The Commissioner
Tiruppur City Municipal Corporation
Tiruppur 641 604.

...Respondent

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the respondent Corporation to re-allot the shops to the members of the petitioner Association in the newly constructed Smart City complex in the old bus stand, Kamaraj road, Tiruppur, Tiruppur District.

For petitioner : Dr.Thiyagarajan
Senior Counsel
for Mr.R.Sundram

For respondent : Mr.S.Silambanan
Senior Counsel
for Ms.Shanthi

ORDER

The prayer sought herein is for a writ of mandamus, directing the respondent Corporation to re-allot the shops to the members of the petitioner Association in the newly constructed Smart City complex in the old bus stand, Kamaraj road, Tiruppur, Tiruppur District.

2. The petitioner is an Association called Tiruppur Municipality Shop Merchants Association. There are about 90 and more members are there in the Association who were running shops at the old bus stand at the respondent Muunicipal Corporation.

3. When that being so, the petitioners were directed to vacate the shops at one point of time, enabling the Corporation to complete the Smart City Project by making some construction and therefore, at that time, it seems that there has been an understanding between the Corporation and the lessees, who are

the members of the Association, that, once the construction work is completed and the old bus stand is restored after making the necessary construction, these petitioners would be considered reallotting the shops for which they held already.

4. In that pretext, it seems that, the members of the petitioners who are the erstwhile lessees had vacated the shops and thereafter, the construction work was completed and the old bus stand has also been restored. However, as understood between the parties, the respondent Corporation has not come out for making reallotment to the members of the petitioners and therefore, in order to make such reallotment on behalf of the said members, the petitioner's Association has given a representation on 10.04.2021 to the respondent Municipal Corporation and the said representation also since has not so far been considered, they have approached this Court by way of filing the present writ petition.

5. Heard Dr.Thiyagarajan, learned Senior Advocate appearing for the petitioner who would submit that, in respect of the very same Municipal Corporation, already a writ petition had been filed before this Court with almost similar prayer, where a learned single Judge of this Court, having considered the said factual matrix has given the following directions:-

" Considering the subsequent development during the pendency of the writ petition and consensus arrived at between the parties, the writ petition is disposed of with the following directions:-

(i) the members of the petitioner association are directed to pay the enhanced lease rent of 50% instead of 100% and all arrears shall be cleared within a period of three weeks from the date of receipt of a copy of this order.

(ii) In the light of the undertaking given by the petitioner association that 63 members who are licensees of 63 shops will vacate the shops to facilitate the implementation of smart City project, those 63 members having their shops in the old bus stand shall vacate the premise and handover the vacant possession to the respondent Corporation on or before 08.03.2020 at 5 p.m., failing which, the respondent Corporation is entitled to take over the possession and if necessary with the police assistance. No costs. W.P.M.P.No.14713 of 2017 is closed."

6. Relying upon the said order, the learned Senior Counsel appearing for the petitioner would submit that, the present prayer also is almost similar, where also some of the members of the petitioner's Association still have not been reallocated the shop, the petitioner's representation dated 10.04.2021 can be considered and accordingly reallocation can be made, he contended.

7. However, Mr.S.Silambanan, learned Senior Counsel appearing for the respondent Municipal Corporation, on instruction, would submit that, whatever be the earlier terms between the parties would be worked out and in this regard since earlier orders have been passed by this Court on the similar issue in W.P.No.13659 of 2017 dated 18.02.2020, in the same line, the present plea raised by the petitioner's association also, by way of representation, dated 10.04.2021, would be considered by the respondent Corporation on merits and accordingly, suitable orders would be passed within a time frame that may be stipulated by this Court, he contended.

8. I have considered the rival submissions made by the learned counsel appearing for the parties and have perused the materials placed on record.

9. In view of the said submissions made by the learned respective Senior counsel appearing for the parties and by taking note of the documents filed before this Court, I am inclined to dispose of this writ petition with the following direction:-

That there shall be a direction to the respondent Municipal Corporation to consider the request of the petitioner, by way of representation dated 10.04.2021 and decide the same after giving an opportunity of being heard to the representatives of the petitioner's association with regard to their grievance for reallocation of shops to the erstwhile lessees who are the members of the petitioner's association and accordingly, decide the same on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

10. With these directions, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

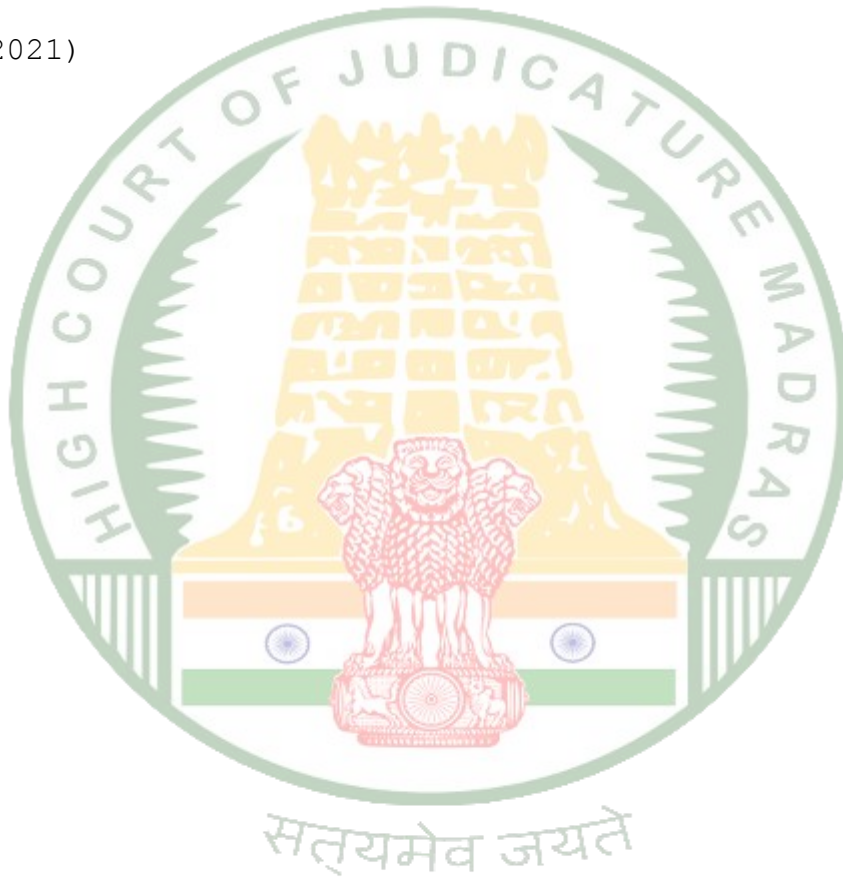
mvs/tsvn
To

The Commissioner
Tiruppur City Municipal Corporation
Tiruppur 641 604.

+1 cc to M/s.R.Sundaram, Advocate, SR.NO.27138
+1 cc to M/s.A.Silambannan, Advocate, SR.NO.27156

W.P.No.11279 of 2021

CP (CO)
NS (17/05/2021)



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