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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.22237 of 2021

&

W.M.P.No.23452 of 2021

1.M.Raja

2.D.Prabhu

3.T.Jayaraman

4.S.Rajesh

5.S.Murugesan

6.D.Muthukumari

7.D.Sundari

8.A.Amutha

9.A.Selvamani

10.R.Ramanujam

11.G.Parthasarathi

12.M.Ayyappan

13.S.Prabhakaran

...Petitioners

Vs.

1.The Commissioner,
Thiruvarur Municipality,
Thiruvarur - 610 001.

2.The Chairman,
Thiruvar Town Vending Committee,
Thiruvarur Municipality Complex,
Thiruvarur - 610 001.

3.The District Collector,
Thiruvarur District,
Thiruvarur.



4.The Divisional Engineer,
High Ways and Rural Works Division,
Government of Tamil Nadu,
Thiruvarur.

5.The Superintendent of Police,
Thiruvarur District,
Thiruvarur.

6.The Director of Municipalities,
Government of Tamil Nadu,
Chennai.

7.The Secretary to Government,
Municipal Administration and
Water Supply Department,
Government of Tamil Nadu,
St. George Fort, Chennai - 600 009.

...Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus or any other appropriate writ or order or direction in the nature of writ directing the 2nd respondent not to evict or relocate or seize the existing street vending shops of the petitioners and also direct all other respondents not to intervene in the functions and activities of the Thiruvarur Town Vending Committee as per law till the issuance of certificate of vending in the approved vending zones as per plans under Section 3 of the Street Vendors (Protection of livelihood and Regulation of Street Vending) Act, 2014 and the Tamil Nadu Street Vendors (Protection of Livelihood and Regulation of Street Vendors) Scheme, 2015 and the Tamil Nadu Street Vendors (Protection of Livelihood and Regulation of Street Vendors) Rules, 2015 within the time frame as may be fixed by this Court.

For Petitioners : Mr.G.P.Arivuchudar
for M/s.Law Square

For Respondents : Mr.N.R.R.Arun Natarajan
Government Advocate

O R D E R

The Writ on hand has been instituted to direct the 2nd respondent not to evict or relocate or seize the existing street vending shops of the petitioners and direct all the respondents not to intervene in the functions and activities of Thiruvarur Town Vending Committee as per law till issuance of Certificate of Vending in the approved vending zones.

2. The petitioners have been doing street vending business on the edge of the State Highways Road between Tanjavur to Nagapattinam i.e., Old Tanjai Road, Thiruvarur.



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On construction of new Bye Pass road at the outer side of Thiruvavur Town Limit, the Highways road has not been used for any of the transport services for more than 36 years, from 1985 onwards due to closer of two railway gates, at the end of south side border of the municipality.

3. The petitioners state that there is no public transport services at this road and it will not affect the free traffic flow.

4. The learned counsel for the petitioners would state that the provisions of the Street Vendors (Protection of Livelihood and Regulation of Street Vendors) Act, 2014, the Tamil Nadu Street Vendors (Protection of Livelihood and Regulation of Street Vendors) Scheme, 2015 and the Tamil Nadu Street Vendors (Protection of Livelihood and Regulation of Street Vendors) Rules, 2015 states that the respondents 1 and 2 are bound to identify the vending zones in consultation with Traffic Police, having jurisdiction over the area and prepare street vending plan and accommodate the street vendors.

5. It is contended that the street vendors identified by the 2nd respondent has to be issued with Street Vendor ID card, but the 2nd respondent is misusing his power and indulging in illegal activities and threatening the petitioners. It is contended that the street vendors cannot be evicted without providing an alternative place for vending.

6. The learned counsel for the petitioners state that the petitioners are regularly threatened by the respondents 1 to 4 and therefore the petitioners are constrained to move the present Writ Petition.

7. The learned Government Advocate appearing on behalf of the respondents objected the said contentions by stating that the authorities have to follow the procedures in case of the eviction to be effected. In the present case, no such notice has been issued by the authorities to the petitioners. Therefore, the Writ Petition is premature and liable to be dismissed.

8. The learned counsel for the petitioners relied on the Judgement passed by this Court on 08.01.2016 in W.P.No.399 of 2016. However, in the said Writ Petition, show cause notice was under challenge and further the Court has directed the authorities to examine the facts by considering the objections raised by the petitioners therein. Therefore, the said Judgement is of no avail to the Writ Petitioners for the purpose of entertaining the present Writ Petition.

9. For entertaining the Writ Petition, the cause has to be established. In the absence of establishing a right or cause, no Writ Petition needs to be entertained under Article 226 of the Constitution of India.



10. In the present case except by orally stating that the officials are threatening, there is no material to establish that the rights of the petitioners are affected or there is a cause for seeking a relief in the present Writ Petition. A mere apprehension raised by the petitioners cannot be a ground for entertaining the Writ Petition, in the absence of any clinching evidence to believe such statement. Thus, this Court has no hesitation to arrive at the conclusion that the petitioners had not established even the semblance of legal right so as to entertain the Writ Petition. This apart, the petitioners are admittedly vending on the State Highways, which may cause inconvenience to the public at large. All these aspects are to be considered by the authorities for initiation of further action in the manner known to law.

11. With these observations, the Writ Petition stands dismissed. Consequently, connected Miscellaneous Petition is also closed. No costs.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Commissioner,
Thiruvarur Municipality,
Thiruvarur - 610 001.
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Thiruvarur Municipality Complex,
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- 3.The District Collector,
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- 5.The Superintendent of Police,
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SJ (CO)
PR (29/11/2021)