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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P. NOS. 14165 AND 14166 OF 2017

AND

WMP. NOS. 15357, 15358/2017 AND 18174 OF 2019

M. Chitra

...Petitioner
in W.P. No.14166/2017

G. Jayalakhmi

...Petitioner in W.P.
No.14165/2017

Versus

1. The Deputy Director of Agriculture
Office of the District Collector
Room No. 404, 4th Floor,
Salem.

2. The President,
Veerapandi Agriculture Engineering and Co-operative
Service Centre, Ariyanir,
Salem

3. The Executive Officer,
Uzhavar Sandhai,
Hashtampatti,
Salem.

... Respondents in both
WPs

WP.No.14165 of 2017: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus forbearing the respondents from evicting the petitioner from Shop No. 37, Uzhavar Sandhai, Hashtampatty, Salem except by due process of law

WP.No.14166 of 2017: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus forbearing the respondents from evicting the petitioner from Shop No. 26, Uzhavar Sandhai, Hashtampatty, Salem except by due process of law.



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For Petitioner : Mr. R. Jayaprakash
in both the writ petitions

For R1 : Mr. Stalin Abhimanyu
Government Counsel
in both the writ petitions

For R3 : Mr. L.P. Shanmugasundaram
in both the writ petitions

For R2 : No Appearance

COMMON ORDER

In both these writ petitions, the petitioners seeks for issuance of a Writ of Mandamus to forbear the respondents from evicting them from their respective shops, without following due process of law.

2. By proceedings dated 18.06.2015 and 05.11.2014 respectively, the petitioners herein were allotted Shop No. 37 and 26 at Uzhavar Sandhai, Hasthampatty, Salem where they carried on Vegetable business. While so, it is alleged that on 31.05.2017, the third respondent orally directed the petitioners to vacate and handover the vacant shops. According to the petitioners, they have sent a notice through their counsel on 28.05.2017 calling upon the respondents not to evict the petitioners from their respective shops without following the due process of law. In spite of the notice dated 28.05.2017, the petitioners are constantly threatened by the officials of the respondents to vacate the shops in their occupation. Therefore, the petitioners have filed the aforesaid two writ petitions.

3. On notice, the third respondent filed counter affidavits in both the writ petitions during February 2021. In Para No.2 of the counter affidavit filed in WP No. 14165 of 2017, it was stated as follows:-

"...2. As regards of the averments made in paragraph 3 of the affidavit, it is submitted that on enquiry it is learned that the then President of the Veerapandi Agricultural Engineering and Co-operative Service Centre has orally informed to the Executive Officer of the Hasthampatti Uzhavar Santhai that they have terminated the Writ Petitioner from their sales woman because of poor sales and there after the Writ Petitioner had promised to improve the sales. Accepting the promise of the Writ Petitioner the then President Veerapandi Agricultural Engineering and Co-



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operative Service Centre had allowed the Writ Petitioner as their sales women. Further it is submitted that till date the writ petitioner act as saleswoman of the Veerapandi Agricultural Engineering and Co-operative Service Centre at shop no.37 in the Hasthampatti uzhavar santhai."

4. Similarly, a counter affidavit has been filed in WP No. 14166 of 2017, wherein it has been stated as follows:-

"2. As regards the averments made in paragraph 3 of the affidavit, it is submitted that the second respondent herein in his letter dated 19.05.2017 requested the first and third respondent to permit the petitioner herein as Saleswoman upto 31.05.2017 and from 01.06.2017 they would appoint some other person as salesman since the petitioner has not come to shop regularly and due to her inattentiveness consumers were suffered. Accordingly the third respondent informed the above fact to the petitioner herein and asked her to handover the shop No.26. Therefore, it is submitted that the petitioner was terminated by the second respondent for not carrying out the duties of the saleswoman. In this regard, it is submitted that shop No.26 was allotted to the Salem Agricultural Engineering and Cooperative Service Centre and the petitioner has been working as Saleswoman on behalf of the Service Centre. Hence, it is submitted that the petitioner cannot claim right for the allotment of shop.

5. In the light of the above averments made in the counter affidavits filed by the third respondent in these writ petitions, no further order is required to be passed in these writ petitions. A Mandamus as sought for by the petitioners cannot be granted. It is open to the respondents to proceed against the petitioners, for vacating the petitioners from their respective shops, if they are not vacated so far, in accordance with law.

6. Accordingly, both the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

dhk/av/rsh

Sub Assistant Registrar



To

1. The Deputy Director of Agriculture
Office of the District Collector
Room No. 404, 4th Floor,
Salem.
2. The President,
Veerapandi Agriculture Engineering and Co-operative
Service Centre, Ariyanir,
Salem
3. The Executive Officer,
Uzhavar Sandhai,
Hasthampatti,
Salem

+2ccs to M/S.R.Jayaprakash , Advocate, S.R.No.42736 & 42737
+1cc to the Government Pleader, S.R.No.42366

WP Nos.14165 & 14166/2017

KSM(CO)
PM/29/09/2021