



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD)Nos.2263, 2265, 2268, 2270, 2277, 3256, 3265, 3270, 3276, 3277, 3281, 3283, 3286, 3287, 3300, 3303, 3313 and 14700 of 2021
and
Connected Miscellaneous Petitions

Saravana Ramesh.K
S/o.S.Kanagasabai,
Shop No.9/46, 9/39 & 9/50,
Mahatma Gandhi Market,
Palayamkottai, Tirunelveli District

... Petitioner in WP(MD).Nos. 2263, 2265 & 2270 / 2021

A.Jinnah,
S/o.Adam Rowther ,
Shop No. 9/24 & 1, 9/16, and 9/16a
Mahatma Gandhi Market, Palayamkottai,
Tirunelveli District .

... Petitioner in WP(MD).No. 2268, 2277 & 3256/ 2021

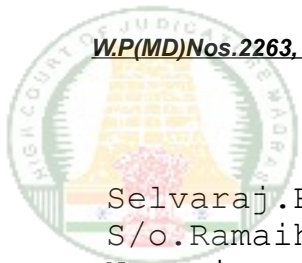
Charles.S
S/o. P.Swamidass,
Shop Nos. 4, 9/42, 2, 12/7 , 3 & 9/41,
Mahatma Gandhi Market, Palayamkottai,
Tirunelveli District.

... Petitioner in WP(MD).Nos. 3265, 3270, 3276, 3277,
3281 & 3287/ 2021

Ramadoss.R
S/o.A.Rajadurai,
Shop Nos.9/15 & 9/13, 9/14 & 9/16
Mahatma Gandhi Market, Palayamkottai, Tirunelveli District.

... Petitioner in WP(MD). Nos. 3283, 3286, 3300 &
3303/ 2021

Immanuel Selvaraj.M
S/o.Muthuraja Nadar, Shop No.9/47,
Mahatma Gandhi Market, Palayamkottai,
Tirunelveli District .



... Petitioner in WP(MD). 3313/ 2021

Selvaraj.R

S/o.Ramaih Pillai, No.2/19, Pillaimar Street,

Narasinganallu,

Tirunelveli - 627 604. ... Petitioner in WP(MD). 14700/ 2021

- Vs. -

1. The State of Tamil Nadu
Rep by the Principal Secretary,
Dept of Municipal Administration and Water Supply,
Fort St.George, Chennai.
2. The Tirunelveli Corporation
Rep by its Commissioner,
Tirunelveli District.
3. The Managing Director,
O/o. The Managing Director, Tirunelveli Smart City Ltd,
Corporation Building, SN High Road, Tirunelveli District.
4. The Director of Town and Country Planning,
O/o. The Director of Town and Country Planning,
807, Anna Salai, Chennai-02.
5. The Chairman,
Tamil Nadu Police Housing Corporation,
Tirunelveli Division.
(R5 is Suo Motu Impleaded Vide Court Order Dated 11.02.2021 made
in WP(MD)Nos. 2263, 2263, 2265, 2268, 2270 and 2277)
6. P. Natrajan
7. S. Charles
8. S. Pushparaj
9. R. Ramadoss
10. A.M.Sundaralingam
11. M. Immanuel Selvaraj
12. A.R. Then Rajan
13. K. Ganesan.
14. S. Mohammed Kamaludeen
15. C.Antonysamy
16. A.Gulam Mohammed
17. M. Karrupasamy
18. A. Kalaiazhagan



19. C. Kamaraj
20. J.P. Masilamani Selvam
21. N. Periyasamy
22. P. Ganesan
23. S. Petchi Mupanar
24. S. Mani
25. J. Vijay Dinakar
26. M.P.M. Jamal Mohammed
27. A. Madasamy Devar
28. R. Sankaran
29. K. Sankara Naryanan
30. G. Arumugam
31. S. Ravichandran

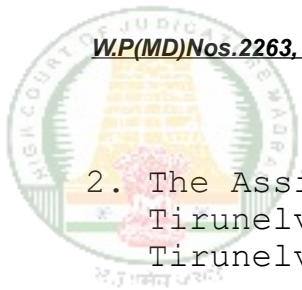
(Respondents 6 to 31 are Impleaded Vide Court Order dated 01/09/2021, made in WP(MD).No. 3766 of 2021

... Respondent in WP(MD). 2263/ 2021

1. The State of Tamil Nadu
Rep by the Principal Secretary,
Dept of Municipal Administration and Water Supply,
Fort St.George, Chennai.
2. The Tirunelveli Corporation
Rep by its Commissioner, Tirunelveli District.
3. The Managing Director,
O/o. The Managing Director, Tirunelveli Smart City Ltd,
Corporation Building, SN High Road, Tirunelveli District.
4. The Director of Town and Country Planning,
O/o. The Director of Town and Country Planning,
807, Anna Salai, Chennai-02.
5. The Chairman,
Tamil Nadu Police Housing Corporation,
Tirunelveli Division.
(R5 is Suo Motu Impleaded Vide Order of the Court Dated 11.02.2021 made in WP(MD) Nos. 2263, 2265, 2268, 2270 and 2277)

... Respondent in WP(MD). 2265, 2268, 2270, 2277/ 2021

1. The Commissioner,
Tirunelveli Corporation, Tirunelveli,
Tirunelveli District.



2. The Assistant Commissioner,
Tirunelveli Corporation (Zonal Office), Palayamkottai,
Tirunelveli, Tirunelveli District.

... Respondents in WP(MD). 3256/ 2021

1. The State of Tamil Nadu,
Rep. by the Prl. Secretary,
Dept. of Municipality Administration and Water Supply,
Fort St.George, Chennai.
2. The Tirunelveli Corporation
Rep by its Commissioner, Tirunelveli District.
3. The Managing Director
O/o. the Managing Director, Tirunelveli Smart City Ltd.,
Corporation Building, SN High Rd, Tirunelveli District.
4. The Director of Town and Country Planning,
O/o. the Director of Town and Country Planning,
807, Anna Salai, Chennai-02
5. The District Collector ,
Tirunelveli District , Tirunelveli.
6. The Commissioner of Police
O/o. the Commissioner of Police,
Tirunelveli City, Tirunelveli
... Respondents in WP(MD). 3265, 3270, 3276, 3277,
3281, 3283, 3286, 3287, 3300, 3303, 3313,/ 2021

1. The District Collector,
Tirunelveli District, Tirunelveli.
2. The District Revenue Officer,
Tirunelveli District, Tirunelveli.
3. Tirunelveli Corporation,
Rep by its Commissioner, Tirunelveli.
4. The Commissioner,
Tirunelveli Smart City Limited, Tirunelveli.
5. P. Varakunan
6. V. Ponnuraj
7. S.D. Mubarak Ali
(Respondents 5 to 7 are Impleaded Vide Court Order Dated
01.09.2021 made in WMP(MD).No.12739)



Common prayer in WP(MD).Nos. 2263, 2265, 2268, 2270, 2277, 3265, 3270, 3276, 3277, 3281, 3283, 3286, 3287, 3300, 3303 and 3313/ 2021 :-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records pertaining to the impugned order in Na.Ka.No.A1/6557/2020 dt 29.12.2020 on the file of the respondent No. 2 issued in respect of Shop Nos. 9/46, 9/39, 9/24, 9/50, 1, 4, 9/42, 12/9, 12/7, 3, 9/15, 9/13, 9/41, 9/14, 9/16 and 9/47 respectively, bearing Tax Assessment Nos. 30187, 30180, 30163, 30247, 30164, 30540, 30183, 30252, 30250, 30539, 30154, 30152, 30182, 30153, 30155 and 30188 respectively, at Mahatma Gandhi Market, Palayamkottai, Tirunelveli District and quash the same as illegal.

Prayer in WP(MD). 3256/ 2021 :-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue Writ or order or direction or in the nature of Writ of Mandamus forbearing the respondents not to evict the petitioner from the shop bearing No.9/16 and 9/16A Mahatma Gandhi market Thiruchendur Road, Palayamkottai, Tirunelveli without providing alternative shops to run existing business based on the representation of the petitioner dated 09.02.2021 within the time limit as stipulated by this Honourable Court

Prayer in WP(MD). 14700/ 2021 :-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of mandamus forbearing the 2nd and 3rd respondents from construct temporary shops or any kind of superstructure in Jawahar Thidal situated in Survey Number 1077 in Ward Number 13 and Erumaikida Ground situated in Survey No.1358/2 in ward III, Block No.II in Tirunelveli Corporation, Tirunelveli District within the time frame as fixed by this Honourable Court.

For Petitioner	: Mr.T.Lajapathi Roy (all wps exept WP(MD).No. 14700 & 3256 of 2021
For Respondents	: Mr.P.Thilak Kumar Government Pleader for R1, R.4 and R5 : Mr.Aayiram K.Selvakumar for R.2 and R.3 (in all Wps Except WP(MD). No.14700 of 2021) : Mr.P.Tamilmalar for R.6 to R.31



(in WP(MD).No. 2263 of 2021)

For Petitioner

:Mr.S.Sarvangan Prabhu

(in WP(MD).No. 3256 of 2021)

:Mr.M.Karthikeya venkitachalapthay

(in WP(MD).No. 14706 of 2021)

For Respondent

:Mr.P.Thilak Kumar

Government Advocate for RR1 & R2 in
WP(MD).No. 14700 of 2021

Mr.K.Aairam K.Selvakumar

for RR3 & 4 in WP(MD).No. 14700 of
2021

:Mr.S.Balaji for Impleaded

respondents in WP(MD).No. 14700 of
2021

COMMON ORDER

(Order of the Court was made by **M.DURAISWAMY, J.**)

W.P(MD)Nos.2263, 2265, 2268, 2270, 2277, 3256, 3265, 3270, 3276, 3277, 3281, 3283, 3286, 3287, 3300, 3303 and 3313 of 2021 have been filed by the petitioners to call for the records pertaining to the impugned order dated 29.12.2020, passed by the second respondent, issued in respect of their shops at Mahatma Gandhi Market, Palayamkottai, Tirunelveli District and quash the same.

2. W.P.(MD)No.14700 of 2021 has been filed by the petitioner, as a Public Interest Litigation, to issue a writ of mandamus forbearing the respondents 2 and 3 from construction of temporary shops or any kind of superstructure in Jawahar Thidal situated in Survey No.1077 in Ward No. 13 and Erumaikida Ground situated in Survey No.1358/2 in Ward III, Block number II in Tirunelveli Corporation, Tirunelveli District.

3. It is the case of the petitioners that there are 540 permanent shops in Mahatma Gandhi Market, Palayamkottai, Tirunelveli District and are functioning for the past 50 years. The petitioners were issued licenses to run the said shops by the Tirunelveli Corporation and the same were periodically renewed. The Tirunelveli city was selected as one of the city under the Smart City Scheme of the Central Government. According to the scheme, a sum of Rs.40.04 Crore has been sanctioned for the reconstruction of the Mahatma Gandhi Market. Pursuant to the same, the Tirunelveli Corporation issued a tender notification for reconstruction of Mahatma Gandhi Market. In these circumstances, the second respondent issued the impugned order, dated 29.12.2020 to the effect that the shops have become dilapidated condition and therefore, the same requires reconstruction, hence, called upon the lessees to vacate the premises of the shops within a period of seven days. Challenging



this order, the petitioners have filed the writ petitions.

4. According to the second respondent, the majority of the shops are in a dilapidated condition, causing serious threat to the vendors and the public. The building stability report, which was reported by the Public Works Department, states about the dilapidated condition of the shops and recommended to dismantle them immediately. In these circumstances, the Government has decided to reconstruct the Mahatma Gandhi Market at a cost of Rs.40 Crores under the Smart City Scheme. In order to give temporary alternate accommodation to the lessees, the second respondent sent a letter to the District Collector - sixth respondent, to allot alternate place for the temporary shops for the existing vendors in the market. The sixth respondent, after getting reports from the Tahsildar, Palayamkottai and the Sub-Collector, Tirunelveli passed an order dated 26.07.2021, allotting alternate land situated in Survey No.1077/1, 1077/6, 1077/7 and Town Survey No.1/1A and 2/2 Block 1, Ward BK, Palayamkottai Division 2, Palayamkottai Taluk as alternate place for the temporary shops for the existing vendors in the Mahatma Gandhi Market.

5. Mr.T.Lajapathi Roy, learned Counsel appearing for the petitioners/lessees, submitted that in similar circumstances, in the case of shops situated in Periyar Bus Stand, Tirunelveli junction, the Division Bench of this Court in W.P.(MD)Nos.24612 to 24621 of 2018, dated 01.02.2019, imposed the following conditions to the Tirunelveli Corporation and the second respondent may also be directed to follow the conditions imposed in the said writ petitions, in the case of Mahatma Gandhi Market lessees. The relevant portion of the order reads as follows:

"7. The bus stand should be constructed within 18 months. The Corporation can proceed with the construction in view of eviction of 32 lessees. However, they should also evict the other 118 lessees to give better facilities to the public. The Corporation must give allotment to all the 144 lessees as per eligibility, after re-construction.

8. We are, therefore, of the view that in larger public interest and to avoid selective eviction, the remaining 118 shops should also be demolished for construction of bus stand. We are fortified in this conclusion, on account of the submission made by the Commissioner that earlier proposal was inclusive of the area where the 118 shops are located. In case the bus stand is constructed in the manner in which it is designed, excluding 118 shops, it would be a scar on the project.

9. We, therefore, direct the Commissioner to provide the details of the 118 lessees by 07 February, 2019 for impleading them as parties to the Writ Petition. After

impleading, the Commissioner shall serve notice on the lessees, so as to enable this Court to dispose of the matter early. We permit the Commissioner to proceed with the construction of bus stand as per the plan, as otherwise, it would escalate the cost."

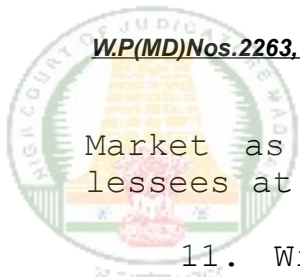
6. Mr.Aayiram K.Selvakumar, learned Standing Counsel appearing for the respondents 2 and 3 submitted that the sixth respondent has already passed an order, dated 26.07.2021 incorporating all the directions given in W.P.(MD)Nos.24612 to 24621 of 2018, dated 01.02.2019 and therefore, there is no necessity for giving any fresh direction to the official respondents.

7. On a perusal of the order dated 26.07.2021, it is clear that the sixth respondent - District Collector has incorporated all the necessary conditions for the proper implementation of the order. So far as the time limit for completion of the construction is concerned, it is needless to say that the official respondents should complete the construction as expeditiously as possible. The respondents should also follow the directions as given by the Division Bench of this Court in the case of Periyar Bus Stand in W.P.(MD)Nos.24612 to 24621 of 2018, dated 01.02.2019.

8. So far as the writ petition in W.P.(MD)No.14700 of 2021 is concerned, the case of the petitioner is that if the alternate shops are provided in Survey No.1077, in Jawahar Thidal and in Erumaikida Ground situated in Survey No.1358/2, it would affect the conduct of social celebrations, public meetings, cultural programmes, which are being conducted in the said places, by getting permissions from the Tirunelveli Corporation.

9. Further, Mr.M.Karthikeya Venkitachalapathy, learned Counsel appearing for the petitioner submitted that the residents of the nearby locality were also celebrated the Dussehra festival in the said places. Therefore, alternate accommodation should not be provided in Survey Nos.1077 and 1358/2 for the Mahatma Gandhi Market lessees.

10. Since the second respondent is providing alternate accommodation only on temporary basis, that is till the completion of the construction in the Mahatma Gandhi market, we are of the considered view that the official respondents cannot be prevented from providing alternate accommodation in the lands in the said Survey Numbers. Since we have already stated that the construction in the Mahatma Gandhi Market should be completed as expeditiously as possible, no prejudice would be caused to the residents of the said locality. Instead of granting the relief sought for in the writ petition in W.P.(MD)No.14700 of 2021, we direct the official respondents to complete the construction of the Mahatma Gandhi



Market as expeditiously as possible and allot the shops to the lessees at the earliest.

11. With the above observations, all the Writ Petitions are disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

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 State of Tamil Nadu,
represented by the Principal Secretary,
Department of Municipal Administration and
Water Supply,
Fort St.George,
Chennai.
- 2.The Tirunelveli Corporation,
represented by its Commissioner,
Tirunelveli District.
- 3.The Managing Director,
O/o the Managing Director,
Tirunelveli Smart City Ltd.,
Corporation Building,
SN High Road,
Tirunelveli District.
- 4.The Director of Town and Country Planning,
O/o the Director of Town and Country Planning,
807, Anna Salai,
Chennai-02.



5.The Chairman,
Tamil Nadu Police Housing Corporation,
Tirunelveli Division.

6.The Assistant Commissioner,
Tirunelveli Corporation (Zonal Office), Palayamkottai,
Tirunelveli, Tirunelveli District.

7.The District Collector ,
Tirunelveli District , Tirunelveli.

8. The District Revenue Officer,
Tirunelveli District, Tirunelveli.

+6 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-27857[F],27857 dated
02/09/2021)

+1CC to Mr.S.Sarvangan Prabhu, Advocate, SR.No. 28089 dated
03.09.021

W.P(MD)Nos.2263, 2265, 2268, 2270, 2277, 3256, 3265, 3270, 3276,
3277, 3281, 3283, 3286, 3287, 3300, 3303, 3313 and 14700 of 2021

01.09.2021

SE (CO)

KB(28.10.2021) 10P 16C