



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V. KARTHIKEYAN

W.P (MD)Nos.15632 and 20884 of 2021

and

W.M.P (MD)Nos.12590 and 17506 of 2021

WEB COPY

W.P. (MD).No.15632 of 2021

N.Kannan

... Petitioner

vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The Commissioner,
O/o.the Dindigul Corporation,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the second respondent to allot a shop to the petitioner in the newly constructed shops in Kamarajar Bus Stand, Dindigul in compliance of the proceedings of the second respondent in Na.Ka.No.18577/2017/A7, dated 15.11.2017 and in consideration of his representation, dated 23.08.2021.

For Petitioner : Mr.R.Maheswaran

For R1 : Mr.D.Gandhiraj
Special Government Pleader

For R2 : Mr.Veerakathiraven
Additional Advocate General
(Assisted by Mr.J.Lawrance
Standing Counsel)

W.P. (MD).No.20884 of 2021

C.Gunasekaran

... Petitioner

vs.

1.The District Collector,
Office of the District Collector,
Collectorate Post, Dindigul-624 004.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Corporation Commissioner,
Office of the Corporation Commissioner,
Main Road, Dindigul-624 001.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the second respondent to allot a shop to the petitioner at attached to the complex situated at Kamarajar bus stand, Dindigul Corporation, Dindigul as per undertaking memo filed by the second respondent, dated 17.04.2018.

For Petitioner : Mr.L.Prabhu

For R1 : Mr.N.Satheesh Kumar
Additional Government Pleader

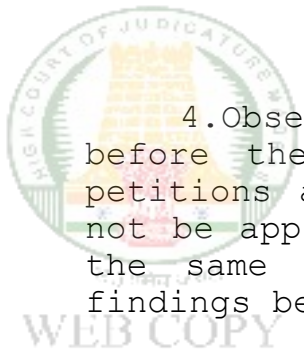
For R2 : Mr.Veerakathiraven
Additional Advocate General
(Assisted by Mr.J.Lawrance
Standing Counsel)

ORDER

The writ petitioners have been running two separate shops in Kamarajar Bus Stand in Dindigul and the said shops were under the control of the Commissioner, Dindigul Corporation, who is the second respondent. The second respondent had taken a decision to demolish the shops, which exist in the bus stand and to reconstruct the same. The petitioners were deeply aggrieved by such decision taken by the second respondent.

2.The petitioners had taken recourse to instituting civil suits. The petitioner in W.P(MD)No.15632 of 2021 filed O.S.No.491 of 2017 and the petitioner in W.P(MD)No.20884 of 2021, filed O.S.No.507 of 2017, both are now pending before the Principal District Munsif Court at Dindigul. The reliefs sought in the said suits are for permanent injunction restraining the defendant/second respondent herein, not to evict or rather not to interfere with the continuation of the business of the petitioners in their particular shops, except with due process of law or rather only with due process of law.

3.I am informed that the parties have joined issues and the suits are still pending consideration of the learned Principal District Munsif, Dindigul. Since the competent jurisdictional Court is now seized of the said issue, it is only prudent that this Court leaves it to the wisdom of that particular Court and to the privilege of that Court to decide the issues raised therein.



4.Observing that the petitioners can place necessary issues before the District Munsif Court, I would dispose of the writ petitions and direct the parties back to the Civil Court. It may not be appropriate for two separate Courts to apply their minds on the same issue and there is every possibility of inconsistent findings being passed.

5.I would rather avoid the same and ensure that it is not done and therefore, refrain from passing any order either in favour of the petitioners or in favour of the respondents, but would relegate the parties back to the District Munsif Court, where the suits are pending.

6.A direction is given to the Principal District Munsif Court, Dindigul to dispose of the O.S.No.491 of 2017 and O.S.No.507 of 2017 on or before 31.01.2022.

7.I would record a caveat, that a two shops may be kept vacant with the measurement, in which, they are proposed to be built and certainly not in the measurement which the petitioners demand, till the suits are disposed for the benefit of the petitioners herein.

8.Therefore, the Writ Petitions are disposed of and consequently, the connected Miscellaneous Petitions are also closed. No costs.

Sd/-

Assistant Registrar (AD I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

lr/sn

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 Principal District Munsif,
Dindigul.

2.The District Collector,
Dindigul District,
Dindigul.

<https://hcservices.ecourts.gov.in/hcservices/>



3.The Commissioner,
O/o.the Dindigul Corporation,
Dindigul District.

+2 CC to M/s.J. LAWRENCE, Advocate (SR-36626[F] & SR-36626[F] dated 30/11/2021)

+1 CC to M/s.SPL GP (SR-36711[F] dated 01/12/2021)

W.P(MD)Nos.15632 and
20884 of 2021

and
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MGJ(14.12.2021) 4P 7C