



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2021

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD) .Nos.20448 and 20451 of 2021

and

W.M.P. (MD) .Nos.17092, 17094, 17101 and 17102 of 2021

WEB COPY

In W.P. (MD) .No.20448 of 2021

Sikkanthar Batcha

... Petitioner

Vs.

1.The Commissioner of Corporation,
Madurai City,
Aringar Anna Maligai,
outpost, Thallakulam,
Madurai-625 002.

2.The Assistant Commissioner (Revenue) of Corporation,
Aringar Anna Maligai,
Outpost, Thallakulam,
Madurai-625 002.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the entire records in connection with the impugned order passed by the first respondent vide his proceedings Ref.No. MA.VA.2/015592/2021 dated 04.10.2021, quash the same.

For Petitioner : Mr.Niranjana S.Kumar

For Respondents : Mr.K.K.Kannan

Standing Counsel

In W.P. (MD) .No.20451 of 2021

Thivanpari

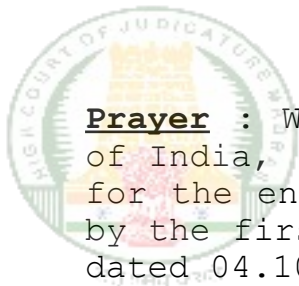
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For Petitioner : Mr.Nirajan S.Kumar
For Respondents : Mr.B.Saravanan
Standing Counsel

COMMON ORDER

Writ Petitions filed questioning an order, dated 04.10.2021. It claims that the first respondent has interfered with continuation of the lawful business, which according to the petitioners, they were doing on the eastern side of the Thamukkam ground by putting up small shops.

2.The petitioner in W.P(MD)No.20448 of 2021, is not a direct allottee, but, his father was an allottee and the petitioner claims right has flowed down to him. This is an aspect which he would have to explain and the right will have to be adjudicated by the respondent.

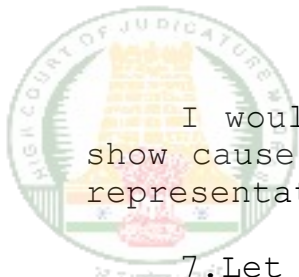
3.The petitioner in W.P(MD)No.20451 of 2021, is a direct allottee.

The writ petitioners are aggrieved by the impugned order, which quite admittedly, had been issued without notice to the petitioner.

4.The learned Counsel for the respondent, however, placed reliance on a specific clause of the allotment which states that the first respondent/Commissioner can take possession of the shops for reasons which are emergent in nature and for any other such reasons, which are justified for taking over the shops. However, the impugned order is based on a report given by the second respondent. Once a report had been received, then naturally reasonable questions can be asked by the petitioners herein, as to why the second respondent did not issue notice to the petitioners before forwarding a report to the Commissioner.

5.In view of that particular fact, the report of the second respondent will necessarily have to be interfered with and any order passed by the first respondent on the basis of such report also has to be interfered with.

6.Let me not deal with deeply into the reasons for taking of possession, because this is a matter, where subjective satisfaction will have to be arrived at the first respondent quite independently of the facts stated above.



I would therefore hold that the order impugned be treated as a show cause notice. I am informed that the petitioners have given a representation pending the Writ Petitions on 17.11.2021.

7.Let the first respondent take a considered decision on the said representations of both the petitioners and at any rate, endeavour to dispose of the same by following principles known to law and in manner recognized by law on or before 10.12.2021.

8.With the above observations, this Writ petitions are allowed to the above extent. No costs. Consequently, the connected Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar (CO)

// 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 Commissioner of Corporation,
Madurai City,
Aringar Anna Maligai,
outpost, Thallakulam,
Madurai-625 002.

2.The Assistant Commissioner (Revenue) of Corporation,
Aringar Anna Maligai,
Outpost, Thallakulam,
Madurai-625 002.

+1 CC to M/s.NIRANJAN S. KUMAR, Advocate (SR-35607[F]
dated 24/11/2021)

+1 CC to M/s.K..K. KANNAN, Advocate (SR-35838[F] dated 25/11/2021)
W.P(MD).Nos.20448 and 20451 of 2021
23.11.2021

AR(CO)

GC(30.11.2021) 3P 5C

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