



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :29.11.2021

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD).No.20538 of 2021

and

W.M.P. (MD) .No.17177 of 2021

M.Govindaraj

... Petitioner

Vs.

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

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

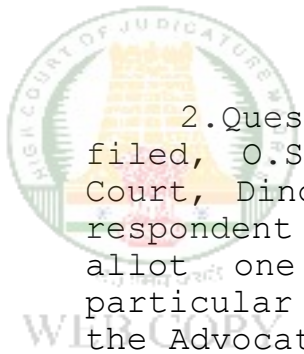
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the second respondent to allot a shop to the petitioner at attached to the complex situated at Kamarajar bus stand, Dindigul Corporation, Dindigul as per undertaking memo filed by the second respondent, dated 10.10.2018.

For Petitioner : Mr.L.Prabhu
For R1 : Mr.S.Shanmugavel
Additional Government Pleader

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

ORDER

The writ petitioner herein, had the benefit of running a shop at Kamarajar bus stand, Dindigul. The second respondent/Commissioner, Dindigul Corporation, had taken a conscious decision to demolish shops in Kamarajar Bus Stand and to rebuild shops and notification in this regard had been issued that was necessitated owing to the Smart City Project at the initiative of the second respondent.



2.Questioning such notification, the petitioner herein, had filed, O.S.No.492 of 2017, before the Additional District Munsif Court, Dindigul. During the pendency of the said suit, the second respondent herein/defendant therein filed an undertaking memo to allot one particular shop to the petitioner therein. This particular undertaking has been filed which had been signed only by the Advocate for the second respondent herein/defendant therein. It was not signed by the actual defendant/Commissioner, Dindigul Corporation. The evidentiary value of the said undertaking affidavit can be decided only by putting the Advocate in the witness box and examine him as to how and under what circumstances, he had the authority to sign such a Memo.

3.Any Advocate, on the strength of a vakalat, can enter into a settlement on behalf of his client, but every such document, wherein a right of the client, is given up or is agreed to be compromised, must also be signed by the client who agreed to such a settlement or compromise. Unilateral signature by the learned Counsel may not, by any stretch of imagination, bind the particular client. There is an existing contract when a vakalat is filed and that contract extends to do all acts on behalf of the particular client for whom the vakalat is filed. But when rights are given up or rights are entered into compromise, then, it is imperative that both of the Advocate and the client signed the particular document.

4.The particular affidavit had come up for consideration before the learned Additional District Munsif, Dindigul, who gave a judgment on 10.10.2018.

5.I quite wonder at the decree passed on an undertaking which was not binding on the parties. The learned Additional District Munsif passed a decree in which he had stated that the suit is "closed".

6.The word "closed" does not find place anywhere in the Code of Civil Procedure. A suit may be dismissed. It may be decreed. Parties may enter into compromise either at the instance of the Court or at the it own instance. Compromise may also be entered into between the parties, but still such a compromise again should be presented before the Court and a decree must be framed in terms of the said compromise.

7.There must be a particular result given and the parties must know whether the relief they have sought, has been granted or rejected. They must know whether the suit has been decreed or a suit has been dismissed. Using the word "closed" will not be to the benefit of either one the plaintiff or the defendant.

8.On the face of it, the judgment and decree will necessarily have to be interfered with. Even though this is a Writ Petition under Article 226 of the Constitution of India, I am within my



rights to take it up also as a revision under Article 227 of the Constitution and strike down the entire judgment and decree, dated 10.10.2018 and interfere with the said judgment and decree.

9.The entire proceedings is not lawful. No right flowed to the plaintiffs but no rights of the defendants have been taken away. Plaintiff has to suffer owing to this particular fact. I also hold that in view of this particular aspect, no relief can also be granted to the petitioner herein.

10.This Writ Petition is, therefore, dismissed. No costs. Consequently, the connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar (CS-II)

// 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 District Collector,
Office of the District Collector,
Collectorate Post, Dindigul-624 004.
- 2.The Corporation Commissioner,
Office of the Corporation Commissioner,
Main Road, Dindigul-624 001.

+1 CC to M/s.J. LAWRENCE, Advocate (SR-36630[F] dated 30/11/2021)
W.P(MD).No.20538 of 2021
and
W.M.P. (MD) .No.17177 of 2021
29.11.2021

NSN(CO)
GC(10.12.2021) 3P 4C