



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28-01-2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP NO.1158 OF 2022

AND

WMP NO.1225 OF 2022

Tamilarasu

...Petitioner

vs.

Periyanaickenpalayam Panchayat,
Represented by its Executive Officer,
Periyanaickenpalayam,
Coimbatore District.

...Respondent

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondent not to interfere with the petitioner's business carrying on shop No.28, Ground Floor, Periyanaickenpalayam Panchayat, Periyanaickenpalayam, Coimbatore till the expiry of lease period 31.03.2023 by considering the representation dated 10.01.2022.

For Petitioner : Mr.B.Gopalakrishnan

For Respondent : Mr.S.Rajesh,
Government Advocate.

O R D E R

The relief sought for in the present writ petition is to direct the respondent not to interfere with the petitioner's business carrying on shop No.28, Ground Floor, Periyanaickenpalayam Panchayat, Periyanaickenpalayam, Coimbatore till the expiry of lease period 31.03.2023 by considering the representation dated 10.01.2022.

2. Though the petitioner referred to a Lease Deed, the learned counsel for the petitioner, on verification, made a submission that no Lease Deed was signed between the parties. It was an oral arrangement made between the President of the Panchayat and the petitioner and accordingly, the petitioner is running the shop. In the absence of any valid Lease Deed or



Agreement, in accordance with the provisions of the Act and Rules, the petitioner cannot claim any right in respect of his continuance.

3. The public properties are to be leased out only by conducting open public auction by issuing an appropriate Notification and in a transparent manner. Contrarily, based on the oral arrangement between the Panchayat President and a private person, such public properties cannot be leased out. Even then the petitioner filed the present writ petition only based on certain apprehensions. No order has been passed so far and the petitioner states that the respondents are threatening the petitioner. However, there is no record to establish that the respondent has threatened the petitioner.

4. In the absence of any such right or cause, the writ petition cannot be entertained. First of all, the petitioner has to establish his right or infringement of right or a cause of action and in the absence of any one of such aspect, no writ needs to be entertained. Thus, the petitioner is not entitled for any relief.

5. However, after arguing the case during the morning session, the writ petition was passed over for getting instructions as to whether the petitioner is holding any valid lease or not. The matter was again taken up at 02.15 P.M., and the learned counsel for the petitioner reported by stating that there is no Lease Deed in between the petitioner and the respondent and there is no allotment order also.

6. Accordingly, the learned counsel for the petitioner made a submission that the petitioner has chosen to withdraw the present writ petition. In view of the said submission made by the learned counsel for the petitioner, after advancing arguments at length, this Court is inclined to consider the request and the writ petition stands dismissed as withdrawn. If any notification is issued for conducting public auction, the petitioner is at liberty to participate in the auction to be conducted by the Competent Authorities. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

Svn



To

The Executive Officer,
Periyanaickenpalayam Panchayat,
Periyanaickenpalayam,
Coimbatore District.

+1cc to M/s.B.Kumarasamy, Advocate Sr.No.5354

W.P.No.1158 of 2022

PMK (CO)
RVM(09/02/2022)