



W.P. No. 16706 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2022

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 16706 of 2013

and

M.P. No. 1 of 2013

S.Sivakumar

... Petitioner

-VS-

1. The Commissioner,
Tiruvannamalai Municipality Office,
Tiruvannamalai.
2. The District Collector,
Tiruvannamalai.
3. The Chairman,
Tiruvannamalai Municipality,
Tiruvannamalai.
4. The Town Planning Officer,
Town Planning Inspector,
Tiruvannamalai.
5. District Revenue Officer (North),
Tiruvannamalai Municipality,
Tiruvannamalai.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the Second Respondent bearing Na. Ka. No. 2013/A1 dated



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06.06.2013 and quash the same and direct the Second Respondent to provide an alternate site to the members of the Petitioner Association in the vicinity of Tiruvannamalai New Bus Stand.

For Petitioner : Mr. G.Venkatasubban
for M/s. Sarvabhauman Associates

For Respondents : Mr. P.Karthikeyan (for R1, R3 & R4)

Mr. T.Arunkumar,
Additional Government Pleader
(for R2 & R5)

ORDER

Heard Mr. G.Venkatasubban, Learned Counsel appearing for the Petitioner, Mr. P.Karthikeyan, Learned Counsel for the First, Third and Fourth Respondents and Mr. T.Arunkumar, Learned Additional Government Pleader appearing for the Second and Fifth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Notice in Na. Ka. No. 2013/A1 dated 06.06.2013 by which the Petitioner was required to vacate the Auto Stand in front of TMC Lodge in Tiruvannamalai Town. This Court at the time of admission on 20.06.2013 had passed the interim order restraining the Respondents from evicting the Petitioner at the said location.



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3. At the outset, it must be recapitulated as observed by the Hon'ble Supreme Court of India in ***Nagar Panchayat, Kurwari -vs- Mahesh Kumar Singhal*** [(2013) 12 SCC 342) that is a basic principle of law that nobody has a right to use the land belonging to another without latter's permission or paying for it, if demanded. Having regard to the contentions raised by the Petitioner in this Writ Petition, the First Respondent has filed Counter-Affidavit dated 29.05.2014 in which it has been explained as follows:-

“12. With regard to the allegations in para 6 of the affidavit, it is respectfully submitted that the Petitioner association has not taken any steps to vacate the vacant space encroached by them in front of the old TMC Building. In fact, the Petitioner association's alleged reply dated 15.06.2013 has not been received in this Respondent's office. However, Thiru. S.Kamaludeen, claiming to be the District Joint Secretary of the CITU Auto Drivers Sangam, No. 36, TSR, Muthammal Nagar, Vengikkal, Tiruvannamalai Taluk, sent a representation dated 18.06.2013 to this Respondent requesting to drop the proposed eviction of the auto stand. This representation could not be complied with in view of the proposed new construction of



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shopping complex after demolishing the existing old TMC

Building as resolved by the Tiruvannamalai Municipality by Resolution No. 474 on 24.05.2013. This Respondent further submits that in the vicinity of Tiruvannamalai Bus Stand, there are three auto stands are functioning as described below:-

- (i) One auto stand is functioning on the northern side of the bus stand;*
- (ii) Another auto stand is functioning temporarily on the road side near Telecommunication Office at the eastern side of the bus stand; and*
- (iii) Yet another auto stand is functioning on the road side on western side of the bus stand.*

This Respondent further submits that there are as many as 26 other auto stands functioning at various locations in Tiruvannamalai Town. The Petitioner has made allegations as though the Tiruvannamalai Municipality is bent upon throwing the auto drivers out of job. On the other had, taking into consideration of the age of the existing old TMC building which was constructed more than 20 years back and also with a view to obviate danger and difficulties to general public as well as to



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the tenants who are in occupation of the existing building, the Tiruvannamalai Municipality has resolved by Resolution No. 474 on 24.05.2013 to demolish the existing old building and to construct a new shopping complex. The Tiruvannamalai Municipality's intention is legal, lawful and bonafide. This Respondent issued notice dated 06.06.2013 only as a process of implementation of the Tiruvannamalai Municipal Council's Resolution No. 474 dated 24.05.2013. This Respondent submits further that providing of alternative site to the Petitioner association for running auto stand could be done only if the Petitioner association properly represents to the appropriate authorities concerned. As of now, there is no vacant space in the vicinity of Tiruvannamalai Bus Stand under the control of Tiruvannamalai Municipality. Further, various Government agencies, such as Revenue, Highways, HR & CE, Local Bodies, besides no objection from Traffic Police, are involved in the matter of providing alternative site to the Petitioner association to run auto stand. The Petitioner association has not approached any of the Government Agencies to provide alternative site to them for running auto stand. In these



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circumstances, the Petitioner association has not other alternative than to vacate the site occupied by them in front of the old TMC Building.”

In such circumstances, the aforesaid submissions made by the Respondents deserve acceptance. When the Petitioner has not obtained any prior permission for putting up the auto stand in the property belonging to the Respondents, there is no justification to interfere with the impugned notice and the interim order earlier granted has to be vacated.

4. In the result, the Writ Petition, which is devoid of merits, is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index: Yes/No

Note: Issue order copy by 11.11.2022.



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To

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Tiruvannamalai Municipality Office,
Tiruvannamalai.
2. The District Collector,
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3. The Chairman,
Tiruvannamalai Municipality,
Tiruvannamalai.
4. The Town Planning Officer,
Town Planning Inspector,
Tiruvannamalai.
5. District Revenue Officer (North),
Tiruvannamalai Municipality,
Tiruvannamalai.

Copy to

S.Sivakumar,
District President,
No. 36, T.S.R. Auto Drivers Society,
Tiruvannamalai.



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P.D. AUDIKESAVALU, J.

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