



W.P. No.3832 & 3839 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2022

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P. Nos.3832 & 3839 of 2022 &
W.M.P.Nos.3974, 3977, 3967, 3971, 5622 & 5624 of 2022

1.R.Rengasamy

...Petitioner in W.P.No.3832 of 2022

2.M.Senthilsivakumar

...Petitioner in W.P.No.3839 of 2022

Vs.

The Municipal Commissioner
Nagapattinam Municipality,
Nagapattinam District 611 001.

...Respondent in both WPs

Prayer in W.P.No.3832 of 2022: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorarified Mandamus, calling for the records of the Respondent herein viz the commissioner Nagapattinam Municipality Nagapattinam District in Na.Ka. No. 3469/2021/ A4 dated 24.01.2022 quash the proceedings in respect of the petitioner herein and consequently directing the respondent herein permit the petitioner to continue with his business in shop No. 42 at New bus stand Velipalayam, Nagapattinam District.

Prayer in W.P.No.3839 of 2022: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorarified Mandamus calling for the records of the Respondent herein viz the commissioner Nagapattinam Municipality Nagapattinam District in Na.Ka. No. 3469/2021/ A4 dated 24.01.2022 quash the proceedings in respect of the petitioner herein and consequently directing the



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respondent herein permit the petitioner to continue with his business in shop No. 44 at New bus stand Velipalayam Nagapattinam District.

For Petitioners : Mr.Krishna Ravindran for
M/s.A.Charles Darwin
For Respondent : Mr.P.Srinivas

ORDER

Heard Mr.Krishna Ravindran, learned counsel for learned counsel on record for the petitioner and Mr.P.Srinivas, learned Standing Counsel for the respondent. Since the issue that arises for consideration falls within a short compass, these writ petitions are disposed even at a preliminary stage, prior to completion of pleadings.

2. The main ground urged is the violation of principles of natural justice. The petitioners challenge an order dated 24.01.2022 passed by the respondent evicting them from carrying on business in their respective shops i.e. Shop Nos.42 and 44 on New Bus Stand, Velipalayam, Nagapattinam District. The petitioners are stated to be sub-allottees of the original allottees, who had been successful in the auction for the shops in question.

3. There were allegations that were raised in regard to various acts of omission and commission by the petitioners and representations came to be filed by the petitioners that were initially ordered in their favour, by an order passed by the respondent on 01.12.2021.



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4. As against the aforesaid order, the complainant, at whose instigation enquiry was caused at the first instance, filed an application before the Tamil Nadu Urban Local Bodies Ombudsman. The Ombudsman, who is not a party before me, without even hearing the petitioners and on the basis of the complaint filed, passed an order on 27.12.2021, adverse to the petitioners.

5. The impugned order of the Municipality which gives effect to the order of the Ombudsman is dated 24.01.2022 and perpetrates the error committed by the Ombudsman of not having heard the petitioners prior to taking a decision in the matter. Since, admittedly, neither the Ombudsman nor the Municipality have heard the petitioners prior to passing of orders dated 27.12.2021 and 24.01.2022 respectively, orders dated 27.12.2021, though not challenged before me, and 24.01.2022 are set aside.

6. The application filed by the complainant, who is also not arrayed before me, stands restored to the file of the Ombudsman, who shall hear the petitioners as well as the complainant by issuance of notices. He shall consider details/documents, if any, submitted by both parties, and pass orders afresh, which shall be given effect to by the respondent Corporation, in accordance with law. Since the shops are under



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seal pursuant to the impugned order, proceedings, as directed aforesaid, shall be completed expeditiously, in any event, within a period of four weeks from today.

7. These writ petitions are allowed. Consequently, connected miscellaneous petitions are closed. No costs.

14.03.2022

Index: Yes/No

Speaking order/Non-speaking order

ska/nst

Note: Upload this order on 16.03.2022.



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WEB COPY

To

The Municipal Commissioner
Nagapattinam Municipality,
Nagapattinam District 611 001.



WEB COPY



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Dr.ANITA SUMANTH, J.
ska/nst

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