



WEB COPY



W.P.No.14908 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2022

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P.No.14908 of 2022
and W.M.P.No.14125 of 2022

P.Kanagaraj

...Petitioner

-Vs-

The Commissioner,
Municipal Office,
108, Palakkad Main Road,
Pollachi – 642 001.

...Respondent

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari to call for the records in issuance of the proceedings of the respondent in Na.Ka.No.1131/2020/A6 dated 09.06.2022 and quash the same.

For Petitioner : Mr.S.Sithirai Anandam

For Respondent : Mr.B.Anand

ORDER

This writ petition is filed for issuance of a writ of certiorari to quash the proceedings of the respondent in Na.Ka.No.1131/2020/A6 dated 09.06.2022.

2. Brief facts that are necessary for the disposal of this writ petition



W.P.No.14908 of 2022

are as follows:

WEB COPY

3. The petitioner is running a telephone booth at Anna Central Bus Stand, Pollachi – 642 001 comprising an extent of 40 Sq. ft. The premises belonged to Pollachi Municipality and the license was granted to the petitioner in the year 2004 itself.

4. It is admitted that the petitioner was the highest bidder in the public auction conducted by the Pollachi Municipality on 05.07.2004. Though the monthly rent was originally fixed at Rs.301/-, it is stated that same was periodically renewed from time to time and today, the petitioner is paying a sum of Rs.1095/- per month as rent. The petitioner is running the telephone booth for more than 18 years as on date.

5. The petitioner received a show cause notice on 02.06.2022, by which the petitioner was asked to surrender the shop for violation of terms and conditions on the basis of which license was granted to the petitioner. It is admitted that the petitioner though took the shop on lease for the purpose of running the telephone booth, he is now using the shop for selling cool drinks, water bottles, snacks and other eatables. Stating that the petitioner is doing



W.P.No.14908 of 2022

business other than the one for which the shop was given to the petitioner on license the show cause notice dated 02.06.2022 was issued. A reply was submitted by the petitioner to the respondent admitting that the petitioner is using the premises for selling eatables. It is his explanation that by increased usage of mobile phones, the usage of telephone booth and coin box which were installed by the petitioner in the shop has been grossly reduced and therefore, the petitioner had to necessarily go for some other business in the licensed premises. After considering the explanation submitted by the petitioner, the impugned order is passed whereby the petitioner was directed to vacate the shop within 24 hrs and hand over possession of the same to the respondent. At the time of admitting the writ petition this Court has granted an order to maintain status-quo and therefore the petitioner is still continuing his business in the licensed premises.

6. The writ petition was filed challenging the impugned order mainly on the ground that the petitioner was not given sufficient time to vacate the property. It is seen that by the impugned order dated 09.06.2022, the respondent directed the petitioner to remove and hand over the shop within 24 hrs. The petitioner by virtue of an interim order granted by this Court has managed to be in possession of the shop till date.



W.P.No.14908 of 2022

WEB COPY 7.

This Court is unable to accept this argument in favour of the petitioner as the petitioner continued his business on account of an interim order. Subject to terms and conditions a small space was allotted to the petitioner for having telephone booth and coin box for a meagre amount. The petitioner if allowed to sell snacks, cool drinks and other eatables in the same shop, it will be a different use and it is not authorised. The respondent may be able to get more rent if the shop is given for selling eatables in the same complex. There are several other factors that should be considered in a case like this. Merely because the petitioner is now directed to vacate the shop, the impugned order cannot be quashed unless the petitioner has a substantial right to remain in possession the property for any number of years. The license granted to the petitioner can be revoked any time after the period for which it was granted. The petitioner is carrying on business as the licensee for more than 18 years. Hence this Court has no reason to extend the license on fresh terms. Since the respondent has taken action for a bona fide reason, this Court is unable to grant relief. Hence writ petition is dismissed. However the respondent is directed not to disturb the possession till the end of October, 2022 provided that the petitioner files an affidavit of undertaking before this Court he will vacate the premises by the end of October, 2022. The petitioner is also given the



W.P.No.14908 of 2022

liberty to participate in the public auction.

WEB COPY

8. With the above direction, this writ petition stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

22.09.2022

cda

Index : Yes/No

Speaking/Non Speaking order

To

The Commissioner,
Municipal Office,
108, Palakkad Main Road,
Pollachi – 642 001.

S.S.SUNDAR. J.,

cda



WEB COPY



W.P.No.14908 of 2022

W.P.No.14908 of 2022

22.09.2022