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W.P.No.29617 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2022

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.29617 of 2014
and M.P.No.1 of 2014

C.Ammasai

.. Petitioner

Vs.

1.The Executive Engineer,
Public Works Department,
Water Spread Section,
Bhavani Sagar Dam Division,
Erode District.

2.Assistant Engineer,
Public Works Department,
Water Spread Section,
Bhavani Sagar Dam Division,
Erode District.

.. Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying of issuance of Writ of Certiorari Calling for the records relating to the order passed by the 1st respondent in Letter No. K16/1195/ 2014/A6 dated 20.08.2014 and quash the same.

For Petitioner : Mr.S.Parthasarathy

For Respondents : Mr.C.Selvaraj
Additional Government Pleader



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ORDER

The petitioner has filed this petition for issuance of writ of Certiorari calling for the records relating to the order passed by the 1st respondent and quash the same.

2. The case of the petitioner is that on 10.08.1996, the 1st respondent herein allotted 150 sq.ft of land at T.S.No.6/1 at Mudakathanthuri Village, Sathi Division for a lease on certain conditions and based on the said allotment, the petitioner has acquired the said place on payment of advance amount and put up a small asbestos sheet structure and running a fish stall. Further till date the petitioner is paying the lease amount without any default. While so, due to business rivalry, the petitioner's neighbour lodged a false complaint against the petitioner alleging that he has encroached the public land. Based on the said complaint, the 1st respondent without any notice or enquiry has cancelled the lease with effect from 01.07.2014, vide his order dated 20.08.2014. Aggrieved by the said order, the petitioner is before this Court.



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3. The learned counsel appearing for the petitioner submitted that taking advantage of the impugned order, the respondents are trying to evict the petitioner and further if there is an encroachment, the same should be removed in a manner known to law, however in the present case on hand, the respondents without removing the said encroachment, cancelling the license of the petitioner is not sustainable and hence this Court may issue direction to the respondents to remove the encroachment and hear the petitioner before passing any order in respect of the license granted in favour of him.

4. The learned Additional Government Pleader appearing for the respondents submitted that in view of the stay granted, the petitioner continues in occupation, however final order will be passed as expeditiously as possible after hearing the petitioner.



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5. Considering the facts and circumstances of the case, since the petitioner himself came forward to remove the encroachment made by him, this Court is inclined to issue direction to the 2nd respondent to remove the encroachment made by the petitioner and after removal of the same, the respondents may hear the petitioner's grievance and shall pass appropriate orders on the grant of license made in favour of him.

6. This writ petition is disposed of with the above observations.

No costs. Consequently, connected miscellaneous petition is closed.

16.11.2022

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To

1.The Executive Engineer,
Public Works Department,
Water Spread Section,
Bhavani Sagar Dam Division,
Erode District.

2.Assistant Engineer,
Public Works Department,
Water Spread Section,
Bhavani Sagar Dam Division,
Erode District.



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M.DHANDAPANI,J.

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