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W.P.No.21426 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.21426 of 2022 and WMP.Nos.20420, 20422 and 20434/2022

D.Ponramakrishnan

.. Petitioner

vs.

1. The Commissioner,
Ariyalur Municipality,
Ariyalur.

2. The Tahsildar,
Ariyalur Revenue Taluk,
Ariyalur District.

3. N.Subramanian

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying for issuance of a Writ of Certiorarified Mandamus, calling for the
records relating to the impugned notice dated 10.08.2022 vide
Na.Ka.No.2532 issued by the 1st respondent and quash the same as illegal



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and consequently, restraining the respondents from disturbing the petitioner's premises situated in Survey No.555/474, Sri Murugan Watch & Co., Market Street, Ariyalur Town & Taluk, Ariyalur District.

For Petitioner :: Mr.A.V.Raja
For 1st Respondent :: Mr.L.P.Maurya
For 2nd respondent :: Mrs.R.Anitha, Spl.G.P.

ORDER

(Order of the Court was made by the Hon'ble Acting Chief Justice)

Challenging the impugned notice dated 10.08.2022 issued by the 1st respondent under Sections 182 (1) and 362 of the Tamil Nadu District Municipalities Act, 1920, calling upon the petitioner to remove the encroachments made on the road side at Survey No.555/474, Ward No.7, Market Street, Ariyalur Municipality, the present Writ Petition has been filed.

2. Learned Counsel appearing for the petitioner assailing the



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impugned proceedings issued by the 1st respondent submitted that the petitioner who is an authorized dealer of Titan, Sonata, Fast Track, Ajantha, Promise, Rikon, is running an exclusive Watch Show Room in the name and style of "Sri Murugan Watch House" at No.8, Market Street, Ariyalur for the past 10 years by occupying 300 sq.ft. in the old building owned by the 3rd respondent as a tenant and there was an agreement entered into between the petitioner and the 3rd respondent during the year 2011. On the assurance given by the 3rd respondent that the petitioner can occupy the building-in-question for a period of 20 years, the petitioner has spent Rs.10,00,000/- towards the interior decorations and also invested a huge amount of Rs.50,00,000/-. The 3rd respondent is also running a Textile Shop in the name and style of "Babu Textiles" on the southern side of the said building. However, the 3rd respondent's son is insisting upon the petitioner to vacate the premises occupied by the petitioner within a short time. Therefore, the petitioner has filed a Civil Suit in O.S.No.337 of 2014 on the file of the learned District Munsif, Ariyalur and the same is still pending. Meanwhile, the 3rd respondent has approached the 1st and 2nd respondents for evicting the



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petitioner from the business premises-in-question. Only on the discreet prayer made by the 3rd respondent, the 1st respondent has erroneously issued the impugned proceedings dated 10.08.2022 calling upon the petitioner to vacate the premises-in-question within three days which is highly impossible.

3. Learned Counsel for the petitioner further submitted that the issuance of the impugned notice against the petitioner granting 3 days time to vacate the Watch Show Room and handover the possession of the same is unreasonable because though there are so many shops built up in the same line, only the petitioner alone was singled out by the 1st respondent at the connivance of the 3rd respondent landlord as what he cannot achieve in the pending Civil Suit in O.S.No.337 of 2014 on the file of the learned District Munsif, Ariyalur, he sought to achieve the same by approaching the 1st respondent and without knowing the consequence of the same, the 1st respondent also has issued the impugned notice. Therefore, the same is liable to go.



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4. A detailed Counter Affidavit has been filed by the 1st respondent.

5. Learned Counsel appearing for the 1st respondent submitted that when a survey was undertaken by the 2nd respondent on 12.07.2022, it was found that as per the patta, the total extent of the land in S.No.555/474 has been measured as 538 sq.ft. (50 Sq.mt.), but the total extent of the building constructed by the 3rd respondent is 602 Sq.ft. by leaving a vacant portion to an extent of 173 Sq.ft. Therefore, the 3rd respondent has built up 365 sq.ft. in excess by encroaching 85.5 Sq.ft. in S.No.548 which comes under the State Highways Department and 150.5 Sq.ft. in S.No.555/507A which is classified as road and also comes under the control of the 1st respondent Municipality. Hence, when the 3rd respondent has encroached the road by raising construction in Survey No.555/474, the impugned proceedings issued against the occupier is in order. Therefore, no interference is called for, he pleaded.



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6. At the outset, a perusal of the records would show that the petitioner, who is a tenant under the 3rd respondent has been occupying the premises-in-question constructed in Survey No.555/474, Ward No.7, Ariyalur Municipality, let out by the 3rd respondent which comes under the State Highways Department by encroaching 85.5 Sq.ft in S.No.548. In addition there to, when the 3rd respondent is having a total extent of 538 Sq.ft in S.No.555/474, he has constructed a building in 602 sq.ft. by leaving a vacant portion to an extent of 173 Sq.ft. Therefore, it is obvious that the 3rd respondent has built up not only 365 sq.ft. in excess by encroaching 85.5 Sq.ft. in S.No.548 which comes under the State Highways Department, but also encroaching 150.5 Sq.ft. in S.No.555/507A on the road side which comes under the control of the 1st respondent Municipality. Therefore, in our considered opinion, the impugned order issued against the petitioner as an occupier of the premises-in-question is unchallengeable. Hence, we find no merits in the present Writ Petition.



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7. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed. However, two months time is granted to the petitioner to vacate and hand over the premises-in-question.

(T.R.,A.C.J.) (D.K.K, J.)

12.10.2022

Index : Yes/No

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