



WEB COPY

1/5

W.P.No.22149/2022 & Batch



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 07-12-2022

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.Nos.22149, 22161, 22164, 22166, 22178, 22183, 22185, 22154, 22158, 22160 & 22163 of 2022

W.P.No.22149/2022 :

S.Allautheen Basha ... Petitioner

-VS-

The Commissioner,
Erode Municipal Corporation,
Erode – 638 001. ... Respondent

Petition under Article 226 of the Constitution of India, praying for issuance of a writ of certiorarified mandamus, to call for the records relating to the impugned notice vide Na.Ka.No.A1/4793/2021, dated 10.02.2022, issued by the respondent and quash the same and consequently direct the respondent to allot one shop to the petitioner in the newly constructed building at multi storey commercial complex at EKM Abdul Kani Market, Erode, on payment of reasonable amount as may be determined.

For Petitioner in all W.Ps.: Mr.Naveen Kumar Murthy,
for Mrs.S.Varsha.

For Respondent in all W.Ps.: Mr.S.Silambanan,
Addl.Advocate General,
assisted by Mr.M.Rajamathivanan,
Standing Counsel.

COMMON ORDER



WEB COPY

These Writ Petitions are filed for issuance of a writ of certiorarified mandamus to call for the records relating to the impugned notice vide Na.Ka.No.A1/4793/2021, dated 10.02.2022, issued by the respondent and quash the same and consequently direct the respondent to allot one shop each to the petitioners in the newly constructed commercial complex at EKM Abdul Kani Market, Erode, on payment of reasonable amount as may be determined.

2. The case of the petitioners is that they were previously allotted shops by the respondent Corporation for rent in the area at EKM Abdul Kani Market, Erode, for doing business and they had in occupation of the same for the last 25 years by paying rent regularly. While that be so, the respondent Corporation, under the scheme of Smart City project, funded by the Central Government, requested the petitioners to vacate the premises to build a new Commercial Complex in the said place. Pursuant to that, the petitioners vacated the said premises on the hope that they would be allotted new shops in the newly constructed Commercial Complex. The further case of the petitioners is that on construction of the newly constructed Commercial Complex, the petitioners submitted representations to the respondent for allotment of shops, but the same have been rejected vide the impugned order. Hence, these Writ Petitions for the relief as stated above.



WEB COPY

3. Learned Additional Advocate General, appearing for the respondent, would submit that now the Corporation has proposed to conduct auction for the entire shopping complex, containing 219 shops, and, therefore, nothing survives in these Writ Petitions. According to him, if at all any preferential right is allowed to the writ petitioners, it will be based on the highest bid value.

4. The contention of the learned counsel for the petitioners is that during the existence of the tenancy/lease period, they vacated the premises on the assurance that they would be allotted shops in the ground floor and first floor of the newly constructed Commercial Complex.

5. The above contention of the learned counsel for the petitioners is refuted by the learned Additional Advocate General.

6. However, the fact that the petitioners vacated the premises during the existence of the tenancy is not disputed. Considering the said fact and also that a new Commercial Complex has been put up and the petitioners are the occupants of the old premises for more than 20 years, this Court is of the view that they should be given preferential treatment.



7. In such view of the matter, the respondent is directed to reserve five shops in the Ground Floor and six shops in the First Floor of the Complex. These eleven shops shall not be put to auction and they shall be allotted to the petitioners on the basis of draw of lot at the price of the highest bid in respect of the other shops in the Ground Floor and the First Floor, as the case may be.

8. With the above directions, these Writ Petitions are disposed of. No costs. Consequently, the connected W.M.P.Nos.21163, 21166, 21170, 21173, 21175, 21176, 21177, 21185, 21186, 21190, 21192, 21197, 21198, 21150, 21152, 21155, 21156, 21158, 21159 and 21164 of 2022 are closed.

07-

12-2022

Index : Yes/No

Internet : Yes/No

Speaking/Non-speaking Order

dixit

To

The Commissioner,
Erode Municipal Corporation,
Erode – 638 001.



WEB COPY



5/5

W.P.No.22149/2022 & Batch

N.SATHISH KUMAR,J.

dixit

W.P.No.22149 / 2022 & Batch

07-12-2022