



WP.No.25484 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

WP.No.25484 of 2021

A.Kala

... Petitioner

Vs

1. The Commissioner,
Thiruvarur Municipality, Thiruvarur.

2. The District Collector,
Thiruvarur District, Thiruvarur.

3. The Deputy Director of Town and Country Planning,
Thanjavur Region, Arulananda Nagar 7th Street,
Thanjavur – 617 007.

4. S.Nagabhushan

... Respondents

Prayer:- Writ Petition filed under the Article 226 of Constitution of India, to issue a Writ of Mandamus directing the first respondent to pass appropriate Orders on the representation of the petitioner dated 27.9.2021 to de-seal the shop in Plot No.17/A2 of Nallappa Nagar, Thiruvarur Municipality, within a reasonable period as may be fixed by this Court.



WP.No.25484 of 2021

WEB COPY

For Petitioner : Mr.T.Ranganathan

For Respondents : Mr.P.Srinivas – R1

Mr.S.Rajesh, Govt. Advocate – R2 & R3

ORDER

This writ petition has been filed to direct the first respondent to pass appropriate Orders on the representation of the petitioner dated 27.9.2021 to de-seal the shop of the petitioner within a reasonable period as may be fixed by this Court.

2. The case of the petitioner is that he had purchased the plot No.17/A2 of Nallappa Nagar, Thiruvarur Municipality from one Manoharan. A proceedings has been taken against the vendor of the petitioner for illegally extracting the ground water contrary to the G.O.Ms.No.142 Public Works Department dated 22.07.2014 and the business run by the petitioner's vendor has been closed and the vacant site and the building has been sealed. As the building was sealed, the petitioner submitted a representation to the Commissioner of Municipality for desealing the premises and the same has not been considered by the respondents. Hence, the present Writ Petition



WP.No.25484 of 2021

has been filed for the aforesaid relief.

WEB COPY

3. It is the case of the respondents in their counter that initially proceedings have been taken against the vendor of the petitioner for use of the premises contrary to the sanctioned plan. Therefore, the building has been sealed under sections 56 and 57 of the Town and Country planning Act as per the proceedings dated 27.08.2019. Hence, opposed the Writ Petition.

4. The learned counsel appearing for the petitioner submitted that the shop was originally allotted to the vendor of the writ petitioner. As there was illegality in tapping of water by the vendor of the Writ Petitioner, the shop has been sealed and the vendor has closed his business and sold the property to the petitioner.

5. The first respondent has allotted the shop to the vendor of the petitioner. Now the stand of the first respondent is that there is an encroachment. During his submissions, the learned counsel appearing for



WP.No.25484 of 2021

WEB COPY

the petitioner submitted that if there is any encroachment, the petitioner is ready to remove the encroachment and on that ground the building cannot be remained sealed. The respondent has not disputed the fact of allotment of the shop to the vendor of the petitioner and the building has been sealed for some violations committed by the vendor of the writ petitioner.

6. Such being the position, this Court is of the view that the building cannot be remained sealed for the violation committed by the erstwhile owner for illegally extracting ground water. Now the stand of the respondent is that there is an encroachment. This Court is unable to comprehend as to how the entire building can be termed as encroachment when the layout has been approved and the shop itself has been allotted to the vendor of the petitioner. If at all any further encroachment is made, as the petitioner himself as admitted before this Court that if there is any encroachment, he will remove it, the respondents are directed to find out the nature of encroachment, if any and ear mark the same. Once, the encroached area is identified, the petitioner shall remove it. As far as the shop is concerned, the respondents are directed to desal the shop within a period of two weeks from today. If any inspection is made to find out the



WP.No.25484 of 2021

encroachment, the same shall be made in the presence of the petitioner.

WEB COPY

7. With the above directions, this Writ Petition is disposed of. No costs.

08.12.2022

vrc

1. The Commissioner,
Thiruvarur Municipality, Thiruvarur.
2. The District Collector,
Thiruvarur District, Thiruvarur.
3. The Deputy Director of Town and Country Planning,
Thanjavur Region, Arulananda Nagar 7th Street,
Thanjavur – 617 007.



WEB COPY



WP.No.25484 of 2021

N.SATHISH KUMAR, J.

vrc

WP.No.25484 of 2021

08.12.2022