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W.P.Nos.31778 & 32686 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.Nos.31778 & 32686 of 2022

and

W.M.P.Nos.31219 & 32072 of 2022

P.Selvi

.. Petitioner
(in W.P.No.31778 of 2022)

M.Balassoupramanien

.. Petitioner
(in W.P.No.32686 of 2022)

Vs.

1.The Commissioner,
Puducherry of Municipality,
Puducherry.

2.The Executive Engineer,
Puducherry of Municipality,
Puducherry.

3.The Revenue Engineer-I,
Revenue Section-I,
Puducherry of Municipality,
Puducherry.

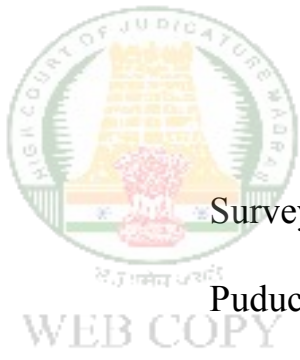
4.The Station House Officer,
Mudaliarpur Police Station,
Puducherry.

.. Respondents
(in both W.Ps)



Prayer in W.P.No.31778 of 2022: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Declaration, declaring the action of the 1st respondent in putting the lock and seal on the petitioner's house property at No.12/1, Arapani Avvai Street, Nethaji Nagar-III, Uppalam, Dr.Ambedkar Salai, Puducherry – 605 001, as illegal and arbitrary and consequently directing the 3rd respondent from any manner interfering with the petitioner's enjoyment of the property at No.12/1, Arapani Avvai Street, Nethaji Nagar-III, Uppalam, Dr.Ambedkar Salai, Puducherry – 605 001.

Prayer in W.P.No.32686 of 2022: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Declaration, declaring the action of the 1st respondent in putting the lock and seal on the petitioner's shop on 15.11.2022 at Ward F, Block 21, T.S.No.25/3 pt. R.S.No.354pt, Cadastree No./Old Survey No.3352/2pt/2pt, 336 to the extent of 00H.00A015Ca, Puducherry Revenue Village, Ambedkar Salai, Uppalam, Puducherry – 605 001, as illegal and arbitrary and consequently restrain the 1st respondent from any manner interfering with the petitioner's enjoyment of the property at Ward F, Block 21, T.S.No.25/3 pt. R.S.No.354pt, Cadastree No./Old



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Survey No.3352/2pt/2pt, 336 to the extent of 00H.00A015Ca,
Puducherry Revenue Village, Ambedkar Salai, Uppalam, Puducherry –
605 001.

(In both the cases):

For Petitioners : Mr.M.Gnanasekar

For Respondents : Mr.T.P.Manoharan
Senior Counsel
for Mr.T.M.Naveen for R1 to R3

COMMON ORDER

(Order of the Court was delivered by V.M.VELUMANI, J.)

The petitioners have come out with the present Writ Petitions to declare the action of the 1st respondent as illegal and arbitrary and consequently restrain the 1st respondent from any manner interfering with the enjoyment of their property.

2.The relief sought for in both the Writ Petitions are one and the same and hence, they are disposed of by this common order.

3.The petitioner in W.P.No.31778 of 2022 claims to be the owner of the property in question and the petitioner in W.P.No.32686 of 2022



claims to be tenant under one P.Selvi, petitioner in W.P.No.31778 of 2022. The 3rd respondent earlier issued notice dated 27.01.2022 directing the petitioner in W.P.No.32686 of 2022 to vacate and hand over the vacant possession of Ward-F, Block-21, T.S.No.25, Arappani Avai Thottam, Ambedkar Salai, Uppalam, Puducherry – 605 001, claiming that it belongs to Municipality. The petitioner in W.P.No.32686 of 2022 filed W.P.No.2480 of 2022 challenging the said notice dated 27.01.2022 issued by the 3rd respondent. This Court by the order dated 07.11.2022 allowed the Writ Petition holding that the said notice was issued by a person having no authority and that the respondents failed to follow the procedure contemplated under Sections 415 and 416 of the Puducherry Municipalities Act, 1973 and granted liberty to the respondents to take action as per the provisions of Puducherry Municipalities Act, 1973.

3(i).Subsequent to the said order dated 07.11.2022, the 1st respondent issued notice dated 10.11.2022 under Section 415 of the Puducherry Municipalities Act, 1973, to the petitioners calling upon them to give explanation on or before 21.11.2022 as to why they should not be evicted. On the very next day, the 1st respondent on 11.11.2022, issued notice under Sections 355 and 474 of the Puducherry



Municipalities Act, 1973, directing the petitioner in W.P.No.32686 of 2022 to stop running the vegetable vending trade forthwith and not to carry on the business in the property in question. According to petitioners, they gave explanation on 15.11.2022 for the notice issued on 10.11.2022. In spite of the same, the 1st respondent came to the shed on 15.11.2022 and sealed the shed arbitrarily. Hence, the writ petitioners have come out with the present Writ Petitions.

4.The learned Senior Counsel appearing for the respondents 1 to 3 submitted that the respondents have initiated proceedings as per the earlier order by issuing notice dated 10.11.2022 under Section 415 of the Puducherry Municipalities Act, 1973 and on receiving the representation, they will proceed further and pass orders under Section 416 of the Puducherry Municipalities Act, 1973. During pendency of the same, the petitioner in W.P.No.32686 of 2022 is running a Vegetable Shop without any license. In view of the same, the 1st respondent has issued notice under Section 355 and 474 of the Puducherry Municipalities Act, 1973 and both the proceedings are different. In view of the fact that the petitioner in W.P.No.32686 of 2022 is running a Vegetable Shop without obtaining any license, the respondents have sealed the premises.



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5. Heard the learned counsel appearing for the petitioners as well as the learned Senior Counsel appearing for the respondents 1 to 3 and perused the entire materials on record.

6. From the above materials, it is seen that the 1st respondent after issuing notice under Section 415 of the Puducherry Municipalities Act, 1973, on 10.11.2022 to the petitioners calling upon them to submit explanation and without passing any order under Section 416 of the Puducherry Municipalities Act, 1973 based on the notice dated 10.11.2022 and explanation submitted by the petitioners, has locked and sealed the premises.

7. In view of the above fact, the 1st respondent is directed to remove the lock and seal forthwith. It is open to the 1st respondent to consider the explanation dated 15.11.2022 submitted by the petitioners and pass orders on merits and in accordance with law as per the earlier order of this Court dated 07.11.2022 made in W.P.No.2480 of 2022.



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8. With the above directions, both the Writ Petitions are allowed.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

(V.M.V., J) (R.H., J)
08.12.2022

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Index : Yes / No

Internet : Yes / No

To

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and

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