



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD) No.153 of 2022

and

W.M.P (MD) No.119 of 2022

WEB COPY

T.Vijayarani

... Petitioner

vs.

- 1.The Commissioner,
Corporation of Madurai,
Aringar Anna Maligai,
Madurai.
- 2.The City Health Officer,
Corporation of Madurai,
Aringar Anna Maligai,
Madurai.
- 3.The Assistant Commissioner (Revenue),
Corporation of Madurai,
Aringar Anna Maligai,
Madurai.
- 4.The Assistant Commissioner Zone-I,
Corporation of Madurai,
Aringar Anna Maligai,
Madurai.
- 5.The Assistant Revenue Officer,
Corporation of Madurai,
Aringar Anna Maligai,
Madurai.
- 6.The Assistant Engineer Ward-17,
Mahaboopalayam,
Madurai Coporation West Zone,
Madurai-16.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned notice in Ma.Val/013871/2021, dated 20.12.2021 issued by the third respondent and quash the same and consequently direct the respondents 1 and 2 to direct the third respondent not to evict the petitioner from the premises until the agreement period i.e., lapse on 01.01.2025 based on the memorandum of agreement, dated 12.01.2016 between the second respondent and the petitioner by following due process of law.



For Petitioner : Mr.R.Senthilkumar
For Respondents : Mr.K.K.Kannan
Standing Counsel

O R D E R

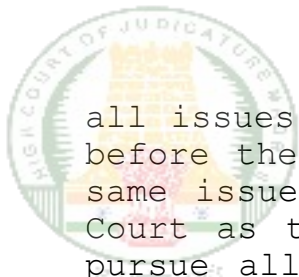
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The present writ petition has been filed in the nature of Writ of Certiorarified Mandamus, seeking interference with a notice, dated 20.12.2021 issued by the third respondent/Assistant Commissioner (Revenue), Corporation of Madurai, Aringar Anna Maligai, Madurai and consequently, direct the first and second respondents to, in turn direct the third respondent not to evict the petitioner from the premises till the period of agreement lapses on 01.01.2025.

2.The petitioner claims that she is the President of a Self Help Group called Abdul Kalam Mahalir Self Help Group, which is functioning at Madurai. The main object is to prepare bakery products. It is stated that they are carrying on business of bakery and in preparation of allied products. The first respondent had allotted a hall at Water Tank Complex, Kennet Foundation Road, Madurai in Ward No.16, Zone-I of Madurai Corporation. An agreement was also entered into on 12.01.2016. The monthly rent was fixed at Rs.1000/-. She claims that there was no default. However, alleging that there was default, a show cause notice had been issued to the petitioner herein on 17.09.2021.

3.The learned counsel for the petitioner claims that the demand raised in the show cause notice for payment of rent had been complied with and that the amount had been paid. In that connection, attention had been drawn to the reply given dated 30.12.2021 enclosing a demand draft for Rs.3,000/-. But, the petitioner had also taken another step, namely, to institute a suit in O.S.No.439 of 2021, before the District Munsif Court at Madurai, wherein, the defendant is the Commissioner of Madurai Corporation. The relief sought in the said suit was for an injunction restraining the said defendant from dispossessing the petitioner, who is one of the plaintiff except by due process of law. I am not called upon to observe about the maintainability of the suit. That suit is still pending.

4.The impugned notice, then came to be issued on 20.12.2021 alleging that inspite of the show cause notice, the rent had not been paid. It be kept in mind on 20.12.2021, that when the impugned notice had been issued, the petitioner had not complied with the payment of arrears as demanded in the show cause notice. The payment of arrears had been paid only on 30.12.2021, after the present impugned notice was issued. There is one more allegation in the impugned notice that on inspection of the premises it was found that, the premises had been sublet to various individuals. These are



all issues, since a suit had been filed, which can be only agitated before the Civil Court and two different Courts cannot examine the same issue at the same time. The petitioner had chosen the civil Court as the forum best suited for her. If that be so, she must pursue all necessary remedies before the said Court. If necessary amendment is required relating to the relief sought, such application can be filed therein. Parallely filing a writ petition, cannot be countenanced and the petitioner will have to work out all remedies before the Civil Court. The petitioner having chosen a primary forum, the Civil Court, should continue the suit and all further proceedings only in the said Court.

5. Recording the above, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

sjj

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Commissioner,
Corporation of Madurai,
Aringar Anna Maligai,
Madurai.

+1 CC to M/s.K.K.KANNAN, Advocate (SR-660[F] dated 06/01/2022)

+1 CC to M/s.R.SENTHIL KUMAR, Advocate (SR-669[F] dated
06/01/2022)

W.P.(MD) No.153 of 2022
06.01.2022

RD(31.01.2022) 3P 4C