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W.P(MD)A



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.08.2022

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.13112 of 2013

and

M.P(MD)No.1 of 2013

J.Fathima Mary

... Petitioner

Vs.

1.Madurai City Municipal Corporation,
Represented by its Commissioner,
Tallakulam,
Madurai.

2.The Assistant Commissioner (Revenue),
Madurai City Municipal Corporation,
Madurai.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned notice dated nil issued by the second respondent with respect to shop of the petitioner with assessment number 6420148 situated at No. 14A, Periyar Palam, TPK Road, Madurai and to quash the same.

For Petitioner : (*)**Mr.J.Barathan**

For Respondents : Mr.T.S.Mohamed Mohideen

ORDER

The present writ petition has been filed challenging an order passed by the second respondent herein, under which the petitioner has been directed to deposit a non-refundable amount of Rs.50,000/- (Rupees Fifty Thousand only) each for three shops that have been let out by the respondent corporation.

2. According to the learned counsel for the petitioner, the shops are very small in nature and the respondent Corporation cannot demand such a huge amount of a sum of Rs.50,000/- (Rupees Fifty Thousand only), that too, to be paid within a period of seven days.



The learned counsel for the petitioner also pointed out the amount has been demanded as a non-refundable caution deposit.

3. Per contra, the learned counsel appearing for the respondent Corporation has contended that though the shops are small in extent, they are located very nearer to the railway station and hence, the petitioner is deriving more income from the said shops. Hence, the demand of Rs.50,000/- (Rupees Fifty Thousand only) for each one of the shops was made. Hence, he prayed for sustaining the impugned order.

4. I have carefully considered the submissions made on either side.

5. A perusal of the order of license issued by the first respondent herein indicates that the vacant site has been licensed to the writ petitioner, over which the petitioner has put up a petty shop using tin sheets. The license indicates that it is a petty shop and the renewal fee has been fixed at Rs.500/- for the period between 2010-2013.

6. The above said facts will clearly indicate that the shops are very small in nature and only a vacant site has been licensed out by the Corporation. In such circumstances, demanding a huge sum of Rs.50,000/- (Rupees Fifty Thousand only) that too, as a non-refundable caution deposit is not sustainable in the eye of law. The resolution passed by the corporation also does not indicate why such a huge amount is been demanded as a caution deposit.

7. The learned counsel for the petitioner, on instructions, submits that his client is willing to deposit the said caution deposit as a refundable caution deposit. The request of the petitioner is found to be reasonable and this Court passes the following order:

(i) The order impugned in the writ petition is set aside only to the extent that it makes the deposit as non-refundable. In other words, the amount demanded in the impugned notice shall be deposited by the writ petitioner and they shall be treated as refundable deposit by the respondent corporation.

(ii) The caution deposit amount for Rs.50,000/- (Rupees Fifty Thousand only) shall be refunded to the writ petitioner, as and when they are evicted or vacated themselves from the said location.

(iii) The writ petitioner agrees to deposit the amount within a period of six weeks from the date of receipt of a copy of this order.

(iv) If the said amount is not deposited on or before 19.09.2022, the corporation is entitled to



proceed in accordance with law.

(v)At the time of making deposit, the petitioner is directed to produce a copy of Aadhar Card.

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8. With the above said observations, this Writ Petition stands allowed to the above said extent. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

(*)Incorporated as per the order of this Court dated 29.08.2022 in W.P(MD)No.13112 to 13114 of 2013

Sd/-

Assistant Registrar (CS-III)

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/09/2022

Sub Assistant Registrar(CS)

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To

(*) To be substituted to the order already despatched on 22/08/2022

1.The Commissioner,
Madurai City Municipal Corporation,
Tallakulam,
Madurai.

2.The Assistant Commissioner (Revenue),
Madurai City Municipal Corporation,
Madurai.

+1 CC to M/s.T.R. JEYAPALAM, Advocate (SR-35404[F] dated 02/08/2022)

+1 CC to M/s.T.S.MOHAMED MOHIDHEEN, Advocate (SR-35748[F] dated 03/08/2022)

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01.08.2022

RD(16/08/2022) 3P 5C