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Order dated 11.10.2022
in Review Application(MD).No.80 of 2022
in W.P.(MD).No.1995 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 11.10.2022

Coram:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

Rev.Application (MD).No.80 of 2022
in
W.P.(MD).No.1995 of 2022
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Mrs.Selvarani (Age 61 years)
W/o N.Selvam

.. Petitioner

Vs.

The Tanjore Municipal City Corporation,
Rep. by its Commissioner,
Gandhi Salai, Tanjore, Tanjore-613 001,
Tanjore District.

.. Respondent

Review Application filed to review the order dated 11.02.2022 passed in
W.P.(MD).No.1995 of 2022 on the file of this Court.

For petitioner : M/s.G.Dhanalakshmi

For respondent: Mr.Athimoola Pandian

ORDER

This Review Application has been listed today for maintainability in the



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S.R. stage itself. Upon hearing both sides, this Court directed the Registry to number the Review Application, if it is otherwise in order. Accordingly, the Review Application is numbered and disposed of by this order.

2. This Review Application is filed seeking to review the order dated 11.02.2022 passed by this Court in W.P.(MD).No.1995 of 2022, in and by which, this Court recorded the submission made by the learned Standing Counsel appearing for the respondent-Tanjore Municipal Corporation that nothing survives for adjudication in the Writ Petition, in view of the fact that the petitioner has already vacated the shop. After recording the said submission, this Court dismissed the Writ petition as having become infructuous.

3. According to the petitioner, the Writ Petition has not become infructuous. Even in the order dated 20.09.2021 passed in W.P.(MD).No.16774 of 2021 filed by the very same petitioner, it has been recorded by the learned Judge that the respondent-Municipal Corporation took possession of the relevant shop belonging to the petitioner on 13.09.2021. In fact, the petitioner, in the said Writ Petition, has challenged the show cause notice, dated 07.09.2021, pursuant to which, the possession of the shop in question, was taken from the



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petitioner by the respondent-Municipal Corporation on 13.09.2021. In the order dated 20.09.2021 passed in W.P.(MD).No.16774 of 2021, a direction was issued by this Court to the respondent-Municipal Corporation providing a copy of the Revenue Inspector's Report, dated 07.09.2021 to the petitioner within a period of one week from the date of receipt of a copy of the order and upon receipt of the same, the petitioner was permitted to submit further explanation to the impugned show cause notice dated 07.09.2021, within a period of 15 days from the date of receipt of a copy of the Revenue Inspector's Report. A direction was also issued by the learned Judge that upon receipt of such further explanation, the respondent-Municipal Corporation was to consider such explanation and dispose of the same by a reasoned order, within 30 days from the date of receipt of such explanation from the petitioner. Until such time, the respondent-Municipal Corporation was restrained from granting allotment of the relevant shop to any other person. It was also made clear that the said order will not stand in the way of the petitioner for applying for allotment of shops in the newly constructed complex through tender-cum-auction or otherwise.

4. Thereafter, the respondent-Municipal Corporation, by complying with the above direction of this Court dated 20.09.2021 passed in W.P.(MD).No.16774



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of 2021 referred to supra, issued eviction notice dated 20.12.2021 against the petitioner, after observing that the petitioner did not respond to the enquiry notice issued by the respondent-Municipal Corporation. Aggrieved by the said notice dated 20.12.2021 passed by the respondent-Municipal Corporation, the petitioner filed W.P.(MD).No.23294 of 2021. By order dated 29.12.2021 passed in W.P(MD).No.23294 of 2021, the learned Judge disposed of the said Writ Petition by directing the respondent-Municipal Corporation to grant one more opportunity to the petitioner and the petitioner was directed to appear before the respondent-Municipal Corporation on 05.01.2022 and the respondent was directed to enquire the petitioner by affording an opportunity of personal hearing and thereafter proceed to pass the order as deemed fit in the manner known to law. The respondent/Municipal Corporation was directed to pass orders on or before 10.01.2022.

5. In compliance with the direction given by this Court on 29.12.2021 in W.P.(MD).No.23294 of 2021, the respondent-Corporation, after affording a personal hearing to the petitioner, passed order on 07.01.2022 reiterating the earlier eviction order passed against the petitioner, and aggrieved by the same, the present Writ Petition in W.P.(MD).No.1995 of 2022 is filed by the writ



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petitioner.

6. On 11.02.2022, after recording the submissions made by the learned Standing Counsel appearing for the respondent/Municipal Corporation that the petitioner has now vacated the shop, this Court dismissed the Writ Petition as the same had become infructuous. In the very same order, it has been recorded that despite the petitioner having been given time to get instructions with regard to the submission made by the learned Standing Counsel appearing for the respondent-Municipal Corporation that the Writ Petition has become infructuous, the petitioner was unable to inform this Court as to the present status of the Writ Petition. However, as seen from the earlier order dated 02.02.2022 passed in W.P.(MD).No.1995 of 2022, it is clear that the respondent-Municipal Corporation was directed to put in writing that nothing survives for adjudication in the Writ Petition, in view of their submission that the petitioner's shop had already been removed. However, without submitting the same in writing, on 11.02.2022, the learned Standing Counsel appearing for the respondent-Municipal Corporation had once again reiterated the very same submission that was made before this Court on 02.02.2022 and based on the said submission, this Court had dismissed the Writ Petition as having become infructuous.

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7. Since it is an admitted fact that the possession was taken from the petitioner even as early as on 13.09.2021 itself, when W.P.(MD).No.16774 of 2021 was pending before this Court and the petitioner having challenged the subsequent proceedings, it is clear that the matter has not become infructuous, in view of the fact that the petitioner has challenged the proceedings which according to him is illegal, as according to him, the possession taken by the respondent-Municipal Corporation, from him, itself is illegal. Therefore, necessarily, the present Writ Petition will have to be heard again and decided on merits.

8. For the aforesaid reasons, there is merit in the Review Application and accordingly, the Review Application is allowed. W.P.(MD).No.1995 of 2022 is restored to file and the same will have to be heard and decided on merits. There shall be no order as to costs.

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Speaking Order: Yes/no

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To

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ABDUL QUDDHOSE, J

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