



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.03.2022

CORAM:

THE HONOURABLE **MR. JUSTICE ABDUL QUDDHOSE**

W.P.[MD]No.5531 of 2022

N.Stephen

... Petitioner

/Vs./

1.The Member Secretary (District Collector),
The Nagercoil Local Planning Authority,
Collectorate, Nagercoil, Kanyakumari District.

2.The Commissioner,
Nagercoil Corporation, Nagercoil.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to permit the petitioner to remove the petitioner's goods / materials from petitioner's rental shop in Door Nos.3 & 4, Ground Floor under the name of "Allan Times & Gifts" and another shop in Door No.1, North East Corner portion of first floor under the name of "Allan Gifts" situate in D.D.J. Centre, Opp. To Vadasery Bus Stand, Nagercoil based on the petitioner's representation dated 03.03.2022.

For Petitioner	: Mr.D.Venkatachalam
For R1	: Mr.D.Sasikumar, Additional Government Pleader.
For R2	: Mr.P.Athimoolapandian, Standing Counsel.

ORDER

This writ petition has been filed for a Mandamus seeking for a direction to the respondents to permit the petitioner to remove his goods / materials from his rental shop in Door Nos.3 & 4, Ground Floor under the name of "Allan Times & Gifts" and another shop in Door No.1, North East Corner portion of first floor under the name of "Allan Gifts" situated in D.D.J. Centre, Opp. To Vadasery Bus Stand, Nagercoil, based on the petitioner's representation dated 03.03.2022, within a time frame to be fixed by this Court.

2.The case of the petitioner is that he was a tenant in respect of the aforementioned shops. According to him, due to unauthorized construction put up by his landlord, the said premises came to be sealed by the first respondent and his articles are still lying in the aforementioned shops. He seeks for removal of the said articles and therefore, he has given a representation on 03.03.2022 to the respondents for the said purpose. Since the said representation has not been considered till date, the petitioner has filed this writ



petition.

3.Heard Mr.D.Venkatachalam, learned Counsel for the writ petitioner, Mr.D.Sasikumar, learned Additional Government Pleader., who accepts notice on behalf of the first respondent and Mr.P.Athimoolapandian, learned Standing Counsel, who accepts notice on behalf of the second respondent.

4.The learned counsel appearing for the petitioner drew the attention of this Court to the Division Bench Judgment of this Court dated 18.01.2021 in WP(MD)No.6084 of 2020 in similar circumstances and would submit that no prejudice would be caused to the respondents, if the articles belonging to the petitioner lying in the aforementioned two shops are permitted to be removed by the petitioner. It is for the respondents to consider the request of the petitioner.

5.In the light of the aforementioned Judgment of the Division Bench of this Court, the petitioner has given a representation on 03.03.2022 requesting the respondents to permit him to remove the articles lying in the aforementioned shops. The aforementioned shops are now under the lock and seal of the respondents, due to unauthorized construction put up by the petitioner's landlord. The petitioner has also filed a copy of the lease deed to show that he was a tenant under the landlord in respect of the aforementioned two shops.

6.For the foregoing reasons, this Court directs the first respondent to consider the representation of the petitioner dated 03.03.2022 requesting permission to remove his goods/materials from his rental shop in Door Nos.3 & 4, Ground Floor under the name of "Allan Times & Gifts" and another shop in Door No.1, North East Corner portion of first floor under the name of "Allan Gifts" situated in D.D.J. Centre, Opp. To Vadasery Bus Stand, Nagercoil, and pass final orders on merits and in accordance with law, after affording a fair hearing to the petitioner, within a period of eight [8] weeks from the date of receipt of a copy of this order.

7.With the above direction, this Writ Petition stands disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



To
The Member Secretary (District Collector),
The Nagercoil Local Planning Authority,
Collectorate, Nagercoil, Kanyakumari District.

+1 CC to M/s.D.VENKATACHALAM, Advocate (SR-15176[F] dated
29/03/2022)

+1 CC to M/s.SPL GP (SR-15349[F] dated 30/03/2022)

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KMV(CO)
KB(08.04.2022) 3P 4C