



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.04.2022**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. (MD) No.7891 of 2022

Mohammed Durai

... Petitioner

/vs./

The Commissioner,
Shengottai Municipality,
Shengottai,
Tenkasi District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent herein to remove the seal and open the petitioner's shop bearing Old No.11-1-2, New No.19/2 measuring an extent of 10 X 25 feet situated at Gandhi Road, Shengottai, Tenkasi District by considering the petitioner's representation dated 26.03.2022, within the time frame fixed by this Court.

For Petitioner : Mr.K.Gokul

For Respondent : Mr.P.Athimoolapandian
Standing Counsel

ORDER

The petitioner has filed this writ petition for a Mandamus to direct the respondent to remove the seal and open the petitioner's shop bearing Old No.11-1-2, New No.19/2 measuring an extent of 10 X 25 feet situated at Gandhi Road, Shengottai, Tenkasi District, by considering the petitioner's representation dated 26.03.2022.

2.Based with an eviction proceeding, the petitioner had approached this Court in W.P.(MD) No.2534 of 2015. At that point of time, the arrears of tax payable by the petitioner was Rs.83,324/-. The said writ petition was admitted and interim stay was granted subject to the petitioner paying 50% of the disputed tax by an order dated 26.02.2015. The petitioner also appears to have paid the amount in two installments amounting to Rs.47,292/-. The petitioner has kept a copy of the Demand Draft for a sum of Rs.22,292/-. There is no evidence to substantiate that the petitioner has paid the balance amount of Rs.25,000/- in



compliance with the interim order granted by this Court in the said writ petition. The said writ petition was later dismissed for default on 02.12.2021 as the counsel on record failed to appear on account of ill-health.

3.The learned counsel for the petitioner submits that now without notice to the petitioner, the respondents have come and sealed the property. It is submitted that the property is more than 100 years old and there is no question of any further demand at exorbitant rate.

4.Opposing the prayer, the learned Standing Counsel for the respondent submits that after the said writ petition was dismissed for default, a notice was issued on 13.12.2021, 22.12.2021 and 21.03.2022, which was refused to be received by the petitioner. It is therefore submitted that there should be no indulgence shown to the petitioner. That apart, it is submitted that the petitioner is due for a sum of Rs.1,64,994/-, which includes the balance out of the amount that was demanded in 2015.

5.Considering the above, I am inclined to dispose of this writ petition at the time of admission by directing the petitioner to pay a sum of Rs.75,000/- within a period of 4 weeks from the date of receipt of a copy of this order. The respondent shall de-seal the property immediately thereafter on payment. In case, the petitioner fails to pay the aforesaid amount, the respondent is at liberty to lock and seal the property of the petitioner once again without any further notice to the petitioner. It is made clear that in case, the petitioner fails to pay the aforesaid amount within the aforesaid period, the protection granted by this Court in this order shall stand automatically vacated. The respondent is directed to adjudicate the claim of the petitioner that the petitioner is liable to pay lessor amount of tax. The amount paid by the petitioner in terms of the order dated 26.02.2015 as also this order shall be treated as deposit subject to the final appropriation after the final order is passed by the respondent.

6.The writ petition stands disposed of, in terms of the above observation. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



TO :

The Commissioner,
Shengottai Municipality,
Shengottai,
Tenkasi District.

W.P. (MD) No.7891 of 2022
25.04.2022.

MM

USK/06.05.2022/3P/2C