



W.P.(MD)No.14368 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.07.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**
and
THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

W.P.(MD)No.14368 of 2022
and W.M.P.(MD) No.10267 of 2022

S.Vadivukkarasi

... Petitioner

Vs.

The Commissioner,
Kodaikanal Municipality,
Kodaikanal,
Dindigul District.

... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for the impugned eviction notice of the respondent vide his proceedings in Na.Ka.No. 94/2009/F1 dated 23.06.2022 to vacate the petitioner's petty shop in Assessment No.079/006/00001, Ward No.6, Building Society, M.M. Street, Koodaikannal, Dindigul District and quash the same as devoid of merits.

For Petitioner

: Mr.S.Selvakumar

For Respondent

: Mr.T.S.Mohammed Mohideen
Standing Counsel



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ORDER

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(Order of the Court was made by **S.S.SUNDAR, J.**)

This Writ Petition has been filed to quash the impugned notice of eviction issued by the respondent by his proceedings in Na.Ka.No.94/2009/F1 dated 23.06.2022, to vacate the petitioner's petty shop in Assessment No.079/006/00001, Ward No.6, Building Society, M.M. Street, Kodaikanal, Dindigul District.

2. Heard Mr.S.Selvakumar, learned counsel for the petitioner and Mr.T.S.Mohammed Mohideen, learned Standing Counsel for the respondent. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3. The petitioner is a resident of M.M. Street, Nethaji Nagar in Kodaikanal. It is the case of the petitioner that her husband is working as Watchman in a private building. Since they struggled to run their family with the meagre income of her husband, it is stated that she started a small petty tea shop in front of her house, after getting proper permission from the respondent about 10 years back. The petty shop put up by the petitioner is measuring 10 feet x 5 feet and it is stated that the petitioner is



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making a small income to support her family and the education of her children. Further, it is the case of the petitioner that she has established the petty shop in a corner without hindrance to the public.

4. The photographs produced by learned counsel for the petitioner show that the petitioner is occupying a place, which may not cause hindrance to public but may serve public purpose if it is kept as vacant. However, by the impugned notice, the petitioner was directed to remove the encroachment within seven days. The eviction notice states that it is issued on the basis of the complaint dated 08.06.2022, given by one of the resident of M.M. Street, Nethaji Nagar.

5. Every public property has to be protected from encroachment and it is for the local body to administer and maintain every public premises for public good. However, the impugned eviction notice is without issuing any show cause notice as contemplated under Section 182 (1) of the Tamil Nadu District Municipalities Act, 1920. Therefore, the impugned order dated 23.06.2022 is quashed. However, the impugned notice may be



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treated as a show cause notice in terms of Section 182(1) of the Tamil Nadu District Municipalities Act, 1920. Hence, the petitioner is directed to give her explanation / representation within a period of 15 days from the date of receipt of a copy of this order. Considering the explanation / representation of the petitioner, in response to the notice dated 23.06.2022, it is open to the respondents to pass appropriate orders on merits and in accordance with law within a period of four week from the date of receipt of the explanation / representation. It is also open to the respondent to consider the petitioner's plea or representation made, if any, for grant of licence or permission to put up a small bunk stall of same size either in the same place, where the petitioner is running the petty shop, or in any other place, if it is not against the public interest or convenience.

6. The Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

[S.S.R., J.] [S.S.Y., J.]
06.07.2022

Index : Yes / No
sj



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S.S.SUNDAR, J.

and

S.SRIMATHY, J.

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