

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 08.09.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.18474 of 2022

M.Jayalakshmi

..Petitioner

Vs

1.The Commissioner,
Tirunelveli City Municipal Corporation Office,
Raja Maligai,
Tirunelveli.

2.The Assistant Commissioner,
Palayankottai Ward Office,
Tirunelveli.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to take action and allot two shops in the new building of Mahatma Gandhi Market, based on the Petitioner's representation, dated 3.8.2022.

For Petitioner :Mr.S.Arunnithy

For Respondents :Mr.Aayiram K.Selvakumar

ORDER

This Writ Petition is filed seeking issuance of a Writ of Mandamus directing the respondents to take action and allot two shops in the new building of Mahatma Gandhi Market, based on the Petitioner's representation, dated 3.8.2022.

2. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3. The case of the Petitioner is that the Tirunelveli Municipal Corporation owns Mahatma Gandhi Market at Palayamkottai from the year 1995. In the said market, Shop Nos.3 and 4 stands in the name of Petitioner's husband (Tax Assessment No.30370 and 30371) and paying the rent regularly. As there was an increase in the rent, the Petitioner's husband and other shop owners filed a suit in O.S.No.507 of 2003 before the District Munsif Court, Tirunelveli, for declaration and for mandatory injunction and the same was dismissed on 17.06.2005 and the appeal filed by the Petitioner's husband and others against the said order, was allowed. Even after the same, the respondents did not fix the rent as per the direction of the Court. The Petitioner's husband has also paid a sum of Rs.2,59,545/- towards rent for the period from February 2002 to November 2011 and the same was withdrawn by the respondents, but the rent was not added in the Petitioner's husband's shop rental account and shown the same as arrears and that the rental receipt was also not issued. While-so, the Petitioner's husband died in the year 2017. In the meanwhile, the respondents have sent notifications to pay the arrears of rent on several occasions and hence, the Petitioner sent a representation on 4.2.2019 along with Demand Draft for Rs.1,86,615/- towards balance of rent for the period from 2011 to 2019 with a request to fix the rent as

per the Court Order and to accept the money which was paid towards rent by the Petitioner's husband. But the respondents have considered the above payment as rental arrears for the period from 2002-2011. But the rent paid by the Petitioner's husband was still pending with the respondents. Further, the respondents have sent demand notice to pay the rental arrears for the year 2010 to 2021. Though the rent was paid till 2019, it was not considered by the respondents and hence the Petitioner sent a representation, dated 26.10.2021 explaining the above facts. Now the Petitioner came to know that in Mahatma Gandhi new market new shops are going to be allotted to the lease-holders. Hence the Petitioner has sent a representation, dated 3.8.2022 to the respondents to tally the Petitioner's rental accounts as per the judgment in A.S.No.92 of 2005 and to allot two shops in the new building. Since there is no response from the respondents, the Petitioner has come forward with the present Writ Petition, for the relief stated supra.

4.The learned counsel appearing for the respondents/Municipal Corporation would submit that the Petitioner's representation will be considered after verifying the documents and necessary orders will be passed in accordance with law, within the time stipulated by this Court.

5.In view of the above, this Court directs the first respondent to consider the representation of the Petitioner, dated 3.8.2022 and pass

appropriate orders on merits and in accordance with law, after affording an opportunity of hearing to the Petitioner and other interested parties, if any, within a period of eight weeks from the date of receipt of a copy of this order.

6. With the above direction, the Writ Petition stands disposed of. No costs.

08.09.2022

Index : Yes/No

Internet: Yes/No

vsn

To

1. The Commissioner,
Tirunelveli City Municipal Corporation Office,
Raja Maligai,
Tirunelveli.

2. The Assistant Commissioner,
Palayankottai Ward Office,
Tirunelveli.

V.BHAVANI SUBBAROYAN,J

vsn

ORDER MADE IN

W.P(MD)No.18474 of 2022

08.09.2022

