



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2022

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD) .No.20138 of 2021

and

W.M.P. (MD) .No.16846 of 2021

WEB COPY

Kannan

... Petitioner

Vs.

1.The Commissioner,
Dindigul City Municipal Corporation,
Dindigul.

2.P.Dilipkumar

... Respondents

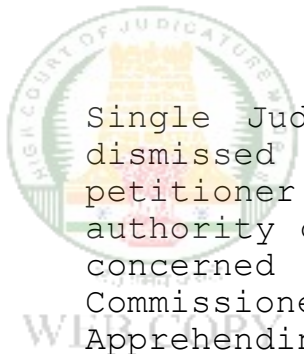
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the first respondent from disturbing the petitioner's street vending business namely Kamatchiaman Mutton Stall at 7th Cross, R.M. Colony, Dindigul, except due process of law.

For Petitioner	: Mr.T.Lenin Kumar
For R-1	: Mr.J.Lawrance, Standing Counsel.
For R-2	: Mr.S.Sarvagan Prabhu

ORDER

The Writ Petition has been filed in the nature of Mandamus seeking protection of the business which is run by the petitioner herein namely, Kamatchiaman Mutton Stall at 7th Cross, R.M. Colony, Dindigul and the petitioner places an obligation on the first respondent / the Commissioner, Dindigul City Municipal Corporation, Dindigul, to follow due process of law, if at all there is any intention to interfere with the running of the business of the petitioner herein.

2. The scope of the Writ Petition is quite narrow. However, the petitioner has also impleaded the second respondent and it is claimed that the petitioner is running his business in Government Puramboke land, which is in front of the land of the second respondent. Therefore, every time the second respondent passes across that particular place, he naturally has to look at the shop of the petitioner herein and the grievance only multiplies day after day. This has necessitated or drawn the second respondent to give a complaint to the first respondent about the continuation of the shop by the petitioner herein and the second respondent had also filed W.P(MD).No.19532 of 2020. A learned



Single Judge of this Court, by an order dated 23.02.2021, had dismissed the said Writ Petition and gave an opportunity to the petitioner therein / the second respondent herein, to address "the authority concerned" with respect to any grievance. The authority concerned now appears to be the first respondent / the Commissioner, Dindigul City Municipal Corporation, Dindigul. Apprehending that the petitioner would be dislocated from his shop premises, the present Writ Petition has been filed seeking protection.

3. In the counter-affidavit filed by the first respondent, it had been stated, after meandering around various aspects, that the said first respondent would adhere to principles established by law. I am confident that they would also not remove the shop of the petitioner in manner not recognized by law.

4. It is claimed by the learned counsel for the petitioner that there is protection offered under the Street Vendors Act. This is disputed by the learned counsels for the respondents. Learned counsel for the first respondent also stated that the first respondent is prepared to give an alternate site for the petitioner herein.

5. Therefore, in view of the above facts, the following directions are issued.

(i) The petitioner may give a representation to the first respondent requesting proper inquiry to be conducted, if at all the first respondent has any intention to remove the shop of the petitioner herein. That representation would protect the interest of the petitioner, since overlooking such representation, the first respondent cannot act in manner adverse to the law.

(ii) If at all the first respondent has any intention of interfering with the continuation of business of the petitioner herein, then an obligation and a caveat is placed that they should do so and they can do so only in manner known to law. This also requires hearing the petitioner and if the rules permit, offering the petitioner, an alternate site to continue his business, since the right to do lawful business is recognized under Article 19(1) (g) of the Constitution.

(iii) In any inquiry made by the first respondent, if it only narrows down to relocating the shop of the petitioner, the second respondent need not be heard. However, if it narrows down to continuation of the shop of the petitioner in the very same location, then the first respondent must also hear the opinion of the second respondent and thereafter, pass necessary orders.

6. The sum and substance of the above observations is that business cannot be interfered with except by due process of law.



process of law. With the above observations, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Lm

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Commissioner,
Dindigul City Municipal Corporation,
Dindigul.

+1 CC to M/s.S.SARVAGANPRABHU, Advocate (SR-234[F] dated 04/01/2022)

+1 CC to M/s.J.LAWRANCE, Advocate (SR-321[F] dated 05/01/2022)

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