



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.02.2022

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P(MD)No.13974 of 2018

and

W.M.P(MD).No.12685 of 2018

(Through video Conference)

R.Saravanan

... Petitioner

Vs.

1.The State of Tamil Nadu Represented by its
The Secretary to Government,
Water Supply and Municipal Administration Department,
Secretariat, Fort. St.George,
Chennai.

2.The Secretary to Government,
Government of Tamil Nadu,
Revenue Department,
Secretariat, Fort St.George,
Chennai.

3.The Director General of Police,
Office of the Director General of Police,
Beach Road,
Chennai.

4.The District Collector,
Office of the District Collector,
Thoothukudi District.

5.The Assistant Director,
Town Panchayats,
Tirunelveli Region,
Tirunelveli.

6.The Executive Officer,
Special Grade Town Panchayat,
Tiruchendur,
Thoothukudi District.

7.Manoranjitham

8.Alagar

9.Chinnadurai

<https://hcservices.ecourts.gov.in/hcservices/>



10.Regurajan
11.Selvakumar
12.Vemani
13.Chendurrajan
14.Vetrivel Murugan
15.Ramesh Kumar
16.Edward

.. Respondents

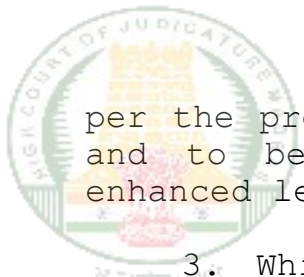
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to direct the respondents 1 to 4 to initiate necessary action against the respondent Nos.7,9,12,14,15 and 16, directing the respondent No.2 to initiate necessary action against respondent Nos.10 and 11 on the basis of the petitioner's representation, dated 12.04.2018 and 28.04.2018 consequently, directing the respondents to pay Rs.20,00,000/- as compensation to the petitioner for demolishing his shop at Shop No.1A, situated at Bagatsingh bus stand, Tiruchendur, Thoothukudi District by misusing their power and without following the due process of law within the time stipulated by this Court.

For Petitioner	: Mr.J.Bharathan
For R1 to R5	: Mr.A.Thiruvadi Kumar Additional Public Prosecutor
For R6	: Mr.M.Rajarajan
For R7 to R16	: Mr.S.Karthick Subramanian

O R D E R

The writ petition is filed seeking mandamus to direct the respondents 1 and 4 to initiate necessary action against the respondents 7, 9, 12, 14, 15 and 16 and similar direction to the second respondent to initiate action against the respondents 10 and 11.

2. The grievance of the petitioner herein is that in the year 2004, he was allotted 100 sq.ft. of vacant land for doing business on the north-west of the old Tiruchendur bus stand and he was duly carrying on business. For construction of the new bus stand, the petitioner was asked to vacate the premises and promised that after construction of new bus stand, he will be allotted a shop near the new bus stand. However, after the construction of new bus stand, he was not allotted alternate place and therefore, he along with similarly placed shop holders approached this Court and pursuant to the orders passed by this Court in W.P(MD)Nos.4981 and 4982 of 2010 fresh application was made to the authorities and in the year 2014 proceedings was issued to the petitioner allotting 150 sq. ft. of vacant space behind K.P.Kandasamy statue near the new bus stand. As



per the proceedings, the license is valid for a period of one year and to be renewed periodically on condition of payment of 5% enhanced lease amount.

3. While fact being so, it is alleged that his request of renewal was not considered and without following the proper procedure, the shop allotted to him was forcibly removed by the authorities and therefore, appropriate action against the authorities by the respective superior is sought in this writ petition.

4. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for State.

5.The 11th respondent-Sub Inspector of Police in his personal capacity, has filed counter in the writ petition and as far as the State is concerned, the learned Additional Public Prosecutor has obtained instructions and the file been produced to this Court for perusal.

6.The proceedings allotting 150 Sq.Ft., of vacant space to the petitioner herein is dated 19.11.2014. This proceedings indicates that the petitioner herein, who was formerly running a Milk Booth near the old bus stand been allotted space near the new bus stand behind K.P.Kandasamy statue. The lease was for a period of one year from 01.12.2014 to 30.11.2015 and there is a specific clause which enables the petitioner to seek for renewal 90 days prior to the expiry of the lease period with an undertaking to pay 5% more as lease amount. Clause-3 of the lease prohibits the lessee from encroaching or extending the shop beyond the extend allotted to him. Further, there is also restriction regarding sale of any prohibited goods in the shop.

7. From the file produced by the learned Additional Public Prosecutor, this Court finds that a complaint has been received from public regarding encroaching excess space by the petitioner and carrying on business other than Milk business in the said place. Further, it has been brought to the notice of the authorities that the shop of the petitioner herein was a hindrance to the public and therefore, it has to be removed. Accordingly, they have removed the shop after the expiry of the lease period. The lease permission was not renewed further though the petitioner has made a request.

8. The photographs annexed by the petitioner along with the writ petition indicates the stall of the petitioner does not carry any sign board of selling Milk or Milk product. But the town and city names of Chennai, Covai, Salem, Bangaluru, Pondicherry, Palani, Pollachi, Velankanni are painted.

9. When the matter came up for hearing, this Court to ascertain whether there are any commercial premises is existing at present in



the place where the petitioner was occupying, the learned Additional Public Prosecutor was requested to produce the photographs. Accordingly, sets of photographs also been produced before this Court wherein this Court finds that in the said place, there is a drinking water tank installed for the use of public.

WEB COPY

10. The learned counsel for the petitioner would submit that before allotting the space 10x15 feet of vacant land, there was a water tank and that was removed and the space was allotted to the petitioner herein in the year 2014. While so, before depriving the right of the petitioner herein, the due process of law ought to have been followed by the authorities and without following the due process, the removal of the shop forcibly amounts to violation of fundamental right enshrined and under Article 14 and 21 of the Constitution of India.

11. The facts as contended by the petitioner herein indicates that in the space allotted to him, there was a water tank for the use of public and that was removed to accommodate the petitioner herein. Though the petitioner was granted vacant space pursuant to the order of this Court, on condition, he should not extend the area allotted to him and he was suppose to run Milk Parlour, he has not carried that business and he has extended the space without authority and that has invited complaint from the public and as a sequence, the respondents have taken action to remove the shop only after expiry of the lease period and not during the lease period.

12. Extension of lease is subject to condition. When the lessee has failed to follow the condition and if the lessor is of the view that the space is required for some other public purpose, the Court cannot interfere. If the petitioner needs an alternate space, it is open for him to make a fresh application and if such application is received by the authorities, they can consider his representation and pass orders in accordance with law.

13. With this observation, this writ petition is disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

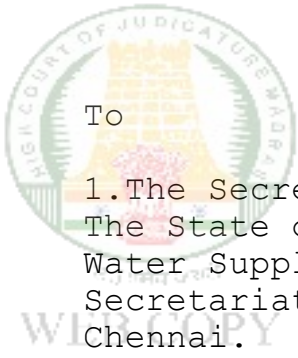
// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PJL

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



To

1.The Secretary to Government,
The State of Tamil Nadu,
Water Supply and Municipal Administration Department,
Secretariat, Fort. St.George,
Chennai.

2.The Secretary to Government,
Government of Tamil Nadu,
Revenue Department,
Secretariat, Fort St.George,
Chennai.

3.The Director General of Police,
Office of the Director General of Police,
Beach Road,
Chennai.

4.The District Collector,
Office of the District Collector,
Thoothukudi District.

5.The Assistant Director,
Town Panchayats,
Tirunelveli Region,
Tirunelveli.

6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

W.P. (MD) No.13974 of 2018
04.02.2022

RD(25.02.2022) 5P 7C