



W.P. (MD) No. 27805 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2022

WEB COPY

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKEAVALU

W.P. (MD) No. 27805 of 2022

and

W.M.P.(MD)No. 21906 of 2022

1.V.Mangaleshwari

2.R.Nageshwari

... Petitioners

Vs.

1.The Tamilnadu State Marketing Corporation Ltd.,
37G8+W27, CMDA Tower-II,
4th Floor, Gandhi-Irwin Road,
Egmore, Chennai - 600 008.

2.The Senior Regional Manager,
Tamilnadu State Marketing Corporation Limited (TASMAC),
Plot No.100, Anna Nagar,
Madurai - 625 020.

3.The District Manager,
Tamilnadu State Marketing Corporation Limited (TASMAC),
Kappalur Industrial Estate,
Madurai - 625 008.

4.Murugesan

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a Writ of Mandamus forbearing the respondents 1 to 4 from running the TASMAL Shop No.5125 without renewing the lease, rental agreement or title of ownership from all the owners of the property in Door No.48C, Madurai-Sivagangai Road, Madurai 625 020 and direct the Respondents 1 to 3 to take criminal action against the 4th Respondent for collecting the rent from the Respondents 1 to 3 for TASMAL Shop No.5125 and for the Bar attached to the shop for the period from 2018 to till date without the consent of the coparceners and to direct the 4th Respondent to pay the appropriate shares in the monthly rent received so far to the other coparceners of the property and to take appropriate action against the official responsible for the payment of rent to the 4th respondent from 2008 to till date by considering the petitioner's written representation dated 29.08.2022.

For Petitioners : Mr. G.Kannan

For R-1 to R-3 : Mr. H.Arumugam

ORDER

Heard Mr. G.Kannan, Learned Counsel for the Petitioners and Mr. H.Arumugam, Learned Standing Counsel for the First to Third Respondents and perused the materials placed on record, apart from the pleadings of the parties.



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2. The Petitioner has filed the Writ Petition to restrain the Respondents 1 to 4 from running the TASMACH Shop No.5125 without renewing the lease, rental agreement or title of ownership from all the owners of the property in Door No.48C, Madurai-Sivagangai Road, Madurai-625020 and to direct the Respondents 1 to 3 to take criminal action against the 4th Respondent for collecting the rent from the TASMACH Shop No.5125 and for the Bar attached to the shop for the period from 2018 to till date without the consent of the coparceners and to direct him to pay the appropriate shares in the monthly rent received so far to the other coparceners of the property and to take appropriate action against the officials responsible for the payment of rent to the 4th respondent from 2008 to till date by considering his written representation dated 29.08.2022.

3. Having regard to the nature of the aforesaid relief sought, it must be pointed out that the Hon'ble Supreme Court of India in the decision in ***Roshina T -vs- Abul Azeez K.T.*** [(2019) 2 SCC 329], has cautioned against determining disputed questions of fact relating to property rights in proceedings following summary procedure under Article 226 of the Constitution and that the same would have to be answered one way or the



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other only in a properly framed suit impleading necessary parties before the civil court. In view of the aforesaid legal position, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to resort to the aforesaid procedure. He has also made an endorsement to that effect.

In fine, the Writ Petition is dismissed as withdrawn granting such liberty. Consequently, the connected Miscellaneous Petition is closed. No costs.

Index : Yes/No
Internet : Yes/No
sm/sj

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Note: Issue order copy by 28.12.2022.



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P.D.AUDIKESAVALU,J.

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