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W.P.No.12324 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.12324 of 2009 and
M.P.Nos.1, 2 & 3 of 2009

1. R.Saravanan
2. R.Radha .. Petitioners

VS

1. The Executive Engineer
Public Welfare Department, Dharmapuri.
2. The General Secretary
National Association of Educated
Self Employed Youth
23, Kandappa Mudali Street
Choolai, Chennai – 112. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent in letter No.254m/2009/K0.113/Va2 dated 26.05.2009 and quash the same as illegal, incompetent and without jurisdiction and further direct the respondents to issue the allotment order in respect of the shops 1 & 2 in the Taluk Office compound, Krishnagiri in favour of the petitioners.

For Petitioner : Mr.Avinash Wadhwani
Ms.V.Srimathi

For Respondents : Mr.Abishek Murthy
Government Advocate
for R1

R2 not ready in notice



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ORDER

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The order dated 26.05.2009 issued by the first respondent asking the petitioners to close down the canteen, which was running without getting proper allotment or permission and in the event of not closing down, actions will be taken to vacate the shops is under challenge in the present writ petition.

2. The petitioners states that, based on the allotment order, one Mr.Arunachalam was running shops in the campus of the Taluk office for more than 25 years. Lease agreement was entered into by fixing the rent and the rent was periodically enhanced. The rent was enhanced to Rs.271.00/- in respect of the Naesey cafe and Rs.334.00/- in respect of Naesey canteen. Due to some financial crises, the said Arunachalam approached the authorities for transfer of booths with his concern. The petitioners paid Rs.1,55,000/- and thereafter was running a canteen and a cafe shop in the Taluk office in the knowledge of the respondents.

3. The petitioners states that they became the members of the second respondent Association and they have deposited a sum of Rs.10,00,000/- to the second respondent and thus acknowledged the same



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on 05.08.2006. The petitioners states that on 10.07.2006, the said Arunachalam has presented an application before the first respondent seeking transfer of booths in favour of the petitioners and the same was intimated to the second respondent also. Thus, the order impugned is to be set aside.

4. The learned Government Advocate appearing on behalf of the first respondent objected the said contention by stating that the petitioners were not granted any allotment by the competent authorities. They are in illegal occupation of the cafe shop and the canteen and the consent of the original allottee is not binding on the Government Authorities. That apart, the deposit of Rs.10 lakhs to the second respondent is no way connected with the Department and no such deposit was paid to the Government accounts and therefore, the first respondent was unaware of the deposits made to the second respondent and more so, not connected with the Government affairs nor the allotment.

5. As far as the first respondent is concerned, the petitioners are illegal occupants of the premises and therefore, they have issued an order asking them to evict the premises, failing which, they will evict the petitioners. Sub-lease without the permission by the competent authorities



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cannot be approved by this Court. Even as per the petitioners, the original allottee was Mr. Arunachalam. Though he made an application to transfer the lease, the said application was not considered nor an order has been passed transferring the lease in favour of the writ petitioners. That being the factum, the petitioners are unauthorized occupants, running canteen and cafe shops without any permission and allotment.

6. That being the case, this Court do not find any infirmity in respect of the orders passed. As far as the deposit of amount to the second respondent is concerned, it is for the petitioner to institute appropriate action against the second respondent to recover the deposit amount or otherwise.

7. As far as the first respondent is concerned, they are directed to initiate appropriate action and ensure that the allottees alone run the shops in the manner contemplated and the authorities, at no circumstances, allow such illegality in the premises of the Taluk office, which would cause prejudice to the public interest.

8. With these observations, the writ petition stands dismissed.

There will be no order as to costs. Consequently, the connected



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miscellaneous petitions are closed.

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Neutral Citation : Yes/No

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S.M. SUBRAMANIAM, J.

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