



W.A.Nos.198 & 199 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.Nos.198 & 199 of 2023

A.M.Sekar .. Appellant in W.A.No.198 of 2023

Bharathraj S/o Shanmugam .. Appellant in W.A.No.199 of 2023

v.

1. The Regional Director
Municipal Administration
Arisipalayam, Salem

2. The Commissioner
Attur Municipality
Attur, Salem District

.. Respondents in both the W.As

Appeals filed under Clause 15 of the Letters Patent, against the order dated 19.01.2023 passed in W.P.Nos.1039 & 1044 of 2023.

For Appellants :: Mr.A.Radhakrishnan

For Respondents :: Mr.L.P.Maurya for R2



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JUDGMENT

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(Judgment of the Court was made by the Hon'ble Acting Chief Justice)

These writ appeals have been directed against the impugned order dated 19.01.2023 passed by the learned single Judge in Writ Petition Nos.1039 & 1044 of 2023.

2. Learned counsel appearing for the appellants submitted that the appellants were allotted Shop Nos.21 & 20 respectively on the western side vacant land of Attur Bus Stand entrance on lease and they have been carrying on the business for the past 20 years. When the appellants were also paying the lease amount regularly to the second respondent, the second respondent also renewed the lease in favour of the appellants for the Shop Nos.21 & 20 respectively from 01.04.2020 to 31.03.2023. However, all of a sudden, the second respondent passed the order dated 13.12.2022 impugned in the writ petitions, directing the appellants to vacate the shops within 15 days from the date of receipt of the order, on the premise that the second respondent wanted to construct the shops with RCC roofing in the western side vacant land area. The appellants questioned the said order in the writ



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petitions on the ground that the appellants have been in possession of the shops in question and eking out their livelihood for two decades, all of a sudden, the order dated 13.12.2022 ought not to have been passed taking away their livelihood. Learned counsel for the appellants also submitted that although the appellants were informed that after demolition and reconstruction of the shops, the appellants can take part in the auction, there is no guarantee that the appellants would be allotted the shops in the newly constructed place. The learned single Judge has also merely held that the request of the appellants will be considered after reconstruction of the shops on preferential basis. Therefore, the present appeals.

3. In reply, the learned counsel appearing for the second respondent submitted that when clause 9 of the terms and conditions of allotment order specifically mentions that as and when need arises to demolish and reconstruct the shops in the place in question, the respondents are entitled to repossess the shop without any notice whatsoever and the appellants have also consciously accepted the terms and conditions of allotment, they cannot



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now seek for allotment as a matter of right. Secondly, the appellant in W.A.No.198 of 2023 has also committed a serious default in not paying the lease amount and there is an arrears of Rs.94,283/- pending against him. The appellant in W.A.No.199 of 2023 also has arrears of Rs.5,000/- pending against him. Therefore, the appellants are not entitled to canvass any point when they have not even paid the lease amount for about two long years. When the appellants have not come to the Court with clean hands, they cannot be shown any indulgence.

4. We also find merits on the submissions made by the learned counsel appearing for the second respondent. Firstly, clause 9 of the terms and conditions of allotment clearly states that the second respondent is entitled to repossess the land for demolition and reconstruction of the shops in question at any point of time and the appellants have also accepted the same. Secondly, the appellant in W.A.No.198 of 2023 is in arrears of Rs.94,283/- and the appellant in W.A.No.199 of 2023 is in arrears of Rs.5,000/- of the lease amount. Thirdly, the learned single Judge has also



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observed that on reconstruction of the shops in question, the appellants are at liberty to take part in the auction on preferential basis for allotment. Therefore, finding no infirmity or error in the impugned order, the writ appeals are dismissed. Consequently, C.M.P.Nos.1978 & 1981 of 2023 are also dismissed. However, there shall be no order as to costs.

5. Learned counsel appearing for the appellants, however, submitted that since there are empty shops available in the place in question, the request of the appellants may be considered for re-occupation subject to clearing the arrears of lease amount within a week's time. Needless to mention that if the appellants clear the entire arrears of lease amount within a period of one week from the date of receipt of a copy of this order, subject to availability of any shop in the bus stand area in question, the request of the appellants will be considered by the second respondent on humanitarian grounds.

Speaking/Non speaking order
Index : yes/no
SS

(T.R.,A.C.J.) (D.B.C.,J.)
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