



W.P.No.15268 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.15268 of 2021

and

W.M.P.Nos.16159 of 2021 & 12001 of 2023

C.Sivagnanam

... Petitioner

Vs.

1.The Administrative Commander,
Station Head Quarters,
Fort St.George,
Chennai – 600 001.

2.The Estate Officer,
Station Head Quarters,
Fort St.George,
Chennai – 600 001.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing the respondents from interfering with the petitioner running of food stall at Bunk No.25, King Barack, Fort St.George, Chennai – 600 009 except under a due process of law.



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For Petitioner : Mr.E.Om Prakash
Senior Counsel
for M/s.G.Veerapathiran
For Respondents : Mr.S.Diwakar

ORDER

The Writ Petition is filed seeking for a Writ of Mandamus, to forbear the respondents from interfering with the petitioner running of food stall at Bunk No.25, King Barack, Fort St.George, Chennai – 600 009 except under a due process of law.

2. Though the petitioner filed W.M.P.No.12001 of 2023 seeking to fix an early date for hearing of the present writ petition, he is consented for the disposal of the main writ petition itself.

3. The case of the petitioner is that, he was running a fast food shop under the name and style of “Saapidavaanga” for more than three decades under the freedom fighter quota. While so, suddenly, in the year 2012, the second respondent filed an eviction petition under the Public



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Premises Act, which was allowed, against which, the petitioner filed an appeal before the Principal City Civil Court at Chennai in C.M.A.No.107 of 2012. The said appeal was dismissed, against which, C.R.P.No.2892 of 2014 was preferred before this Court, in which, order of stay was granted.

3.1. It is the further case of the petitioner that, he has sent a letter showing his intention to pay the rent, if any due, on his part. The respondents vide letter dated 17.07.2017 calling upon the petitioner to pay all the arrears. However, the amount was disputed by the petitioner on the ground that he is not enjoying any electricity connection or water from the respondents. The petitioner had obtained the electricity connection from the Electricity Department and also getting water from the Tamil Nadu Government, for which, amounts are being paid by the petitioner directly. In spite of the fact that the re-calculation amount was made and cheque was sent for a period from October 2012 to June 2017, however, even before the said letter, by further demand the respondents have called upon the petitioner to pay the arrears and rent. The said C.R.P. was allowed by this Court on the condition that the petitioner



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shall pay the arrears of rent, which shall be received by the owners without prejudice to their right to take proceedings for eviction.

3.2. Further, on 10.07.2019, the petitioner settled all the dues with the respondents, pursuant to which, the agreement was renewed for a period of one year till 31.08.2020. On 27.02.2020, the respondents called upon the petitioner for discussion with regard to renewal of rent and the respondents demanded a sum of Rs.41,268/- towards rental, which was paid by the petitioner and another bill for a sum of Rs.2,06,340/- was raised towards electricity and water supply. Thereafter, vide letter 15.10.2020, the respondents claimed a sum of Rs.22,00,000/- as being due and payable by the petitioner. However, according to the petitioner, there is no due on the date of execution of new rental agreement. Even, the premises was closed for some repairs for more than 1½ years and after finishing the repairs, the food stall was opened. The possession of the petitioner is legal as it is based on the agreement entered into between the petitioner and the respondents. Due to Covid-19 lock down, the business of the petitioner suffered much and even the petitioner is unable to meet his day to day expenses. In the above back drop of all the facts,



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the petitioner seeks to forbear the respondents from interfering with his running of the food stall except in the manner known to law.

4. The learned Senior Counsel for the petitioner submits that, during the pendency of the writ petition, entire arrears amount was settled in favour of the respondents and the respondents have also filed counter affidavit stating that, if the entire arrears amount is paid, they will not interfere with the possession and enjoyment of the petitioner. However, contrary to the same, there is a threat of eviction. Hence, he prays that this Court may issues a direction to the respondents to allow the petitioner to continue the business till the property is demolished in the manner known to law.

5. The learned counsel appearing for the respondents submits that, already the demolition notice was issued, aggrieved by the same, other occupants have filed writ petitions before this Court. Even then, the petitioner is not entitled to continue the business in the said premises, since the property is not fit for dwelling.



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6. Heard Mr.E.Om Prakash, learned Senior Counsel for the petitioner and Mr.S.Diwakar, learned counsel appearing for the respondents and perused the materials available on record.

7.The facts in the present case is not in dispute. Admittedly, for non-payment of arrears amount and as against the demand, the petitioner has filed the present writ petition. However, during the pendency of the writ petition, the petitioner settled the entire arrears amount in favour of the respondents. Now, the respondents claims that the building is not fit for dwelling and business purpose. Aggrieved by the same, other occupants have filed writ petitions before this Court.

8. In view of the above, the respondents are directed not to interfere with the possession and enjoyment of the property till the disposal of the writ petitions filed by the other occupants. Further, the respondents are directed to take appropriate action in accordance with law after the disposal of the writ petitions filed by the other occupants, who occupied along with petitioner.



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9. With the above directions, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

24.04.2023

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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To

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