



W.P.No.17824 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.17824 of 2023
and WMP No.16934 of 2023

S.Murugan

... Petitioner

.Vs.

1.The Commissioner
Arni Municipality
Arani-632301.

2.S.Arumugam

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the 1st respondent its men and subordinates from interfering with the possession of the petitioner's right of doing business in respect of Shop No. 12 and 13, I.U.D.P Market building, Market road New bus stand Arani Tiruvannamalai 632 301 under his occupation without due process of law.



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W.P.No.17824 of 2023

For Petitioners	Mr.A.Pannerchelvam
For Respondents	Mr.L.P.Maurya Standing Counsel for R1

ORDER

This writ petition has been filed for the issue of a writ of mandamus forbearing the 1st respondent from interfering with the business conducted by the petitioner in the subject property.

2.Heard Mr.A.Pannerchelvam, learned counsel for the petitioner and Mr.L.P.Maurya, learned Standing Counsel for R1.

3.The main grievance expressed by the petitioner is that there is already a private dispute between the petitioner and the 2nd respondent and the same is being agitated independently in a civil suit filed in O.S.No.10 of 2021, before the District Munsif Court, Arani. In the meantime, the 2nd respondent is instigating the 1st respondent and thereby the officers belonging to the 1st respondent are interfering with the business that is run by the petitioner. According to the petitioner, such interference cannot be made, since there is a subsisting lease and if at all, the petitioner has to be evicted, it can be done only by following due process of law.



W.P.No.17824 of 2023

4. In the considered view of this Court, the main dispute is between the petitioner and the 2nd respondent. Insofar as this dispute is concerned, the petitioner has already instituted a suit before the competent Civil Court and the same is pending against him. The learned counsel for the petitioner submitted that there is an understanding between the petitioner and the 2nd respondent and an agreement has been executed by the 2nd respondent allowing the petitioner to run the business and in spite of the same, the 2nd respondent is instigating the 1st respondent and the officials are interfering with the running of the business.

5. On carefully going through the averments made in the affidavit, it is seen that except a bald averment that the officers of the 1st respondent Municipality are threatening the petitioner and are attempting to evict the petitioner, there are absolutely no particulars, as to when the officers came and what the petitioner did, after he was threatened. Writ Court cannot act based on some bald averments made in the affidavit.

6. This Court has been witnessing on a daily basis that the affidavits are filed in support of the writ petitions lacking particulars. The role of pleadings as is applied in a Civil Court under the Code of Civil Procedure must also be followed, when it comes to filing an affidavit. The affidavit is a sworn statement made by the deponent and the Court acts on this statement. While doing so, when allegations are made against the opposite parties, it has to contain all particulars/details and the Court will not act based on some bald allegations made in the affidavit. Litigant should not be under the impression that it is not necessary for them to make all allegations in the affidavit and they can always try to support their claim



W.P.No.17824 of 2023

through typed set of papers. The typed set of papers filed in the writ petition are only supporting documents and to rely upon those documents, the basis must be created in the averments made in the affidavit. This Court hopes that the same is borne in mind, when affidavits are filed in support of writ petitions.

7. In the considered view of this Court, the private dispute between the petitioner and the 2nd respondent is attempted to be elevated to that of a dispute between the petitioner and the 1st respondent. The 1st respondent Municipality is the authority, who allots the shop. If the shop has been allotted by granting a proper license in favour of a person, the Municipality will not proceed to interfere with the business conducted by that person, who is running the shop during the period of license/lease. It all depends upon who is running the business and in whose name the shop was allotted. The Municipality cannot be bound by some private arrangements between two parties and the Municipality will necessarily act upon on the basis of allotment that was actually made. If the petitioner and the 2nd respondent had any understanding, that has to be independently agitated only in the pending Civil Suit and that should not come in the way of the 1st respondent from taking action, if it is seen that the shop is run by some other persons other than the one to whom the allotment was made. It is made clear that the findings rendered in this writ petition will not have any bearing in the suit that is pending before the competent Civil Court and it is left open to the parties to raise all the pleas in the pending suit and it has to be independently considered and decided by the Civil Court.



W.P.No.17824 of 2023

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8.In the result, this Court does not find any merits in this writ petition and accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

16.06.2023

KP

Internet : Yes/No

Index : Yes/No

Neutral Citation :Yes/No

To

The Commissioner
Arni Municipality
Arani-632301.



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W.P.No.17824 of 2023

N.ANAND VENKATESH, J.

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W.P.No.17824 of 2023

16.06.2023