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W.P. No. 24972 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2023

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

**W.P. No. 24972 of 2023
and
W.M.P. No. 24398 of 2023**

N.Raja Mohammed

... Petitioner

-VS-

1. The Chief Administrative Officer/DRO
Market Management Committee,
C.M.D.A., Koyambedu Wholesale Market,
Koyambedu, Chennai – 600 107.

2. M.Gowri Shankar

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus calling for the records under Proceedings No. ANIKU/A1/0164/2016 dated 17.08.2023 and quash the same and also directing the First Respondent to handover the possession of the shop situated at T/A-1, Anna Fruit Market, Koyambedu, Chennai – 600 107 to the Petitioner and permit the Petitioner to carry on the fruit vending business in the said premises.



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For Petitioner : Mr.T.Thaigneswaran

For Respondent : Mr. P.Kumaresan,
Additional Advocate General
assisted by Mr. Thamarai selvam (for R1)

Mrs. A.L.Gandhimathi,
Senior Counsel
for L.Palani Muthu (for R2)

ORDER

Heard Mr. T.Thaigneswaran, Learned Senior Counsel appearing for the Petitioner, Mr. P.Kumaresan, Learned Additional Advocate General appearing for the First Respondent, Mrs. A.L.Gandhimathi, Learned Senior Counsel appearing for the Second Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

2. It is borne out from the materials placed on record that the Petitioner had earlier filed the Writ Petition in W.P. No. 17879 of 2023 in this Court, in which the following self-explanatory order had been passed:-

“3. On going through the records, it is seen that there is a private dispute between the petitioner and the 2 nd respondent.

The license was granted by the 1 st respondent in favour of the

2 nd respondent and thereafter the 2 nd respondent permitted



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the petitioner to run the business in the Shop at Koyambedu, Chennai. When an attempt was made by the 2nd respondent to interfere with the business, the petitioner also filed a suit in OS.No.7291 of 2019, before the XI Assistant City Civil Court, Chennai, claiming for the relief of permanent injunction. The suit was decreed in favour of the petitioner through judgment and decree dated 04.07.2022.

4. *The grievance of the petitioner is that the decree passed by the Civil Court has become final and the petitioner is also depositing the monthly rent in the Court since the 2nd respondent is refusing to receive the same in IA.No.4 of 2021 through order dated 04.01.2021 and inspite of the same, the 2nd respondent had instigated a third party to create law and order problem and based on the same, a complaint came to be given before the Koyambedu Police Station. Immediately, the complaint was brought to the notice of the 1st respondent and the 1st respondent took steps to seal the shop and the shop was accordingly sealed on 04.06.2023.*



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5. *The petitioner made a representation to the 1st respondent explaining all the above facts on 09.06.2023. Since the same did not evoke any response, the present writ petition has been filed before this Court seeking for appropriate directions.*

6. *Taking into consideration the facts and circumstances of the case and the limited relief sought for in this writ petition and without going into the merits, there shall be a direction to the 1st respondent to deal with the representation made by the petitioner on 09.06.023 and take a decision on its own merits and in accordance with law, within a period of two weeks from the date of receipt of copy of this order. The petitioner is directed to make a fresh representation to the 1st respondent along with all the relevant documents and also a copy of this order.”*

It is informed that in furtherance to the said order, the Petitioner had submitted a detailed representation dated 04.08.2023, but the First Respondent without any discussion has in Proceedings in Se. Mu. Aanai No. ANiKu/A1/0164/2016



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dated 17.08.2023 held that on the basis of the documents produced and the enquiry conducted, the Petitioner has to hand over possession of the shop to the Second Respondent, which is assailed in this Writ Petition.

3. It is evident on a bare reading of the impugned order that apart from extracting the aforesaid order passed by the Court and merely stating that enquiry has been conducted and documents have been produced, there is absolutely no reason mentioned for arriving at the ultimate conclusion that the Petitioner has to hand over the shop to the Second Respondent. In that view of the matter, it would not be possible to sustain the impugned order, which has to be necessarily set aside, and the matter be remitted to the First Respondent to be decided afresh in accordance with the earlier order passed by the Court.

4. In view of the foregoing discussion, this Court without expressing any view on the merits of the *inter se* dispute between the Petitioner and the Second Respondent, passes the the following order:-

- (i) the impugned Proceedings in Se. Mu. Aanai No. ANiKu/A1/0164/2016 dated 17.08.2023 issued by the First Respondent is set aside and the same is remitted back to the First Respondent for conducting fresh enquiry;
- (ii) the Second Respondent is not precluded from submitting any explanation



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in response to the representations and documents submitted by the

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- (iii) if it is found that any other details or supporting documents is necessary from the Petitioner or the Second Respondent, the deficiencies in that regard shall be informed in writing to them requiring the same to be furnished within a time frame of not less than 15 days for the same;
- (iv) in the event of not being satisfied with the requirements even thereafter, an enquiry shall be conducted affording full opportunity of personal hearing to the Petitioner, the Second Respondent and all other persons concerned to explain their respective positions in that regard;
- (v) a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated under written acknowledgment; and
- (vi) the report of such compliance shall be filed by 30.04.2024 before the Registrar (Judicial) of the Court.

In the result, the Writ Petition is ordered on the aforesaid terms.

Consequently, the connected Miscellaneous Petition is closed. No costs.



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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 09.02.2024.
nsl

To

The Chief Administrative Officer/DRO
Market Management Committee,
M.D.A., Koyambedu Wholesale Market,
Koyambedu, Chennai – 600 107.



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P.D. AUDIKESAVALU, J.

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