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W.P.No.35018 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.1.2023

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THE HONOURABLE Mr.JUSTICE N.SATHISH KUMAR

W.P.No.35018 of 2022
and W.M.P.No.34452 of 2022

The Arakkonam Market All Merchants
Association Rep. by its
President A. Doorvasalu Naidu,
No.1, Galivarikandigai Road, Arakkonam ... Petitioner

Vs.

- 1 The State of Tamil Nadu
Rep. by its Additional Chief Secretary to
Government, Municipal Administration And
Water Supply Department, Fort St.George,
Chennai 600 009.
- 2 The Director of Municipal AdMinistration,
MRC Nagar, Raja Annamalaipuram,
Chennai 600 006.
- 3 The Arakkonam Municipality
Rep. by its Commissioner, Arakkonam,
Ranipet District.
- 4 The Arakkonam Municipal Council
Rep. by its Chairman,
Arakkonam Municipality, Arakkonam,
Ranipet District ... Respondents



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Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the records of the 4th respondent pursuant to its Resolution No.184 dated 30.09.2022 and the consequential notice of the 3rd respondent in Na.Ka.No. 1445/ 2022/ A1 dated 14.12.2022 and quash the same and to forbear the respondents 3 and 4 from dispossessing the members of the petitioners association from the Arakkonam Daily Municipal market comprised in T.S. No.179 and 180 Arakkonam Town Ranipet district.

For Petitioner : Mr.G.Germiah
For Respondents 1 & 2 : Mr.Karthik Jeganathan, G.A.

ORDER

The Petitioner Association is a registered Society consists of 194 Shop Keepers in the Arakkonam Daily Municipal Market. The shop keepers are grocery and vegetable merchants, poultry and fish sellers besides fruits and allied petty business. The members of the petitioner Association were inducted as tenants. In the year 1979, the superstructure of the building sought to be demolished by the third respondent Municipality to construct a new building. Accordingly, new building was constructed in the year 1987 and the members of the petitioner Association were allotted shops. However, the third respondent Municipality arbitrarily fixed rent for the newly constructed shops by way of resolution dated 23.2.1987. Aggrieved by the same, the petitioner Association has filed O.S.No.2 of 1994 before the District Munsif Court, Arakkonam challenging the resolution dated 23.2.1987 and the suit was decreed. Aggrieved by the judgment, the third respondent has filed an appeal in A.S.No.16 and 17 of 2019 and the appeal was allowed and the petitioner Association has filed an appeal before this Court and



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the same is pending in S.A.No.1294 and 1295 of 2019. While so, the second respondent issued eviction notice to demolish the existing superstructure of the market building and to construct a new building. Aggrieved by the same, the petitioner Association has filed the instant writ petition before this Court.

2. The learned counsel appearing for the petitioner submits that since the Civil Court already granted permanent injunction, the eviction notice cannot be issued by the respondent. Rent fixed by the respondent Municipality was also challenged and the same is pending before this Court in S.A.No.1294 and 1295 of 2019. Therefore, at this stage, eviction notice issued by the respondent Municipality cannot be sustained in the eye of law.

3. The learned Government Advocate appearing for the respondents submits that similarly placed persons have filed writ petitions before this Court in W.P.Nos.3445, 34441, 34444, 34445 and 34449 of 2022 and this Court by order dated 23.12.2022 while dismissing the above writ petitions, held as under:

“5. In view of the matter that the respondent has decided to re-construct the entire area and allot the shops, as per Rules and the petitioners cannot resist the same. As the respondents themselves admitted that those who have paid rent and professional tax will be taken into consideration in priority basis, therefore, this court finds that the notice of eviction cannot be challenged. The learned counsel for the



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petitioner also submitted that, if they are given allotment in priority basis, they have no grievance.”

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4. At this stage, the learned counsel appearing for the petitioner Association has submitted that they have invested huge amount and demolition schedule is fixed on 20.1.2023 and thereafter, the entire place will be handed over to the successful bidder for new construction. Therefore, the petitioner seeks time till April 30th of this month for vacating the property and seeks direction of this Court directing the respondent Municipality that re-allotment of shops in the new building be given to the existing shop keepers on priority basis.

5. The learned Government Advocate appearing for the respondents submits that after construction new building, shop keepers who paid rent and professional tax will be given re-allotment of shops on priority basis.

6. Submission of the learned Government Advocate is recorded. Considering the earlier order passed by this Court dated 23.12.2022 cited supra and taking into consideration of the request of the petitioner seeking time upto April 2023 for vacating the property, this Court is of the view that the auction proceedings shall be proceeded as per schedule i.e. on 20.1.2023. The members of the petitioner Association are permitted to remain in shops till 31.3.2023 and thereafter, shall vacate and hand over the possession to the respondent



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Municipality to enable them to reconstruct a new building. The third respondent

Municipality is directed to allot shops on priority basis to the existing shop keepers and as per Rules.

With the above directions, writ petition is disposed of. No costs.

Connected miscellaneous petition is closed.

11.1.2023

Speaking/Non Speaking order

Neutral citation: Yes/No

Index: Yes/No

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To

- 1 The Additional Chief Secretary to Government,
Government of Tamil Nadu, Municipal Administration & Water Supply Dept.,
Fort St.George, Chennai 600 009.
- 2 The Director of Municipal Administration,
MRC Nagar, Raja Annamalaipuram, Chennai 600 006.
- 3 The Commissioner, Arakkonam Municipality, Arakkonam, Ranipet District.
- 4 The Chairman, Arakkonam Municipal Council, Arakkonam Municipality,
Arakkonam, Ranipet District



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