



W.P(MD)No.778 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.778 of 2023

S.Balamurugan

... Petitioner

Vs

The Commissioner,
Madurai Corporation,
Madurai.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent to issue preference acknowledgement receipt to the petitioner for the shop allotment at new commercial complex at Periyar Bus Plaza by considering the petitioner's representation dated 24.06.2022.

For Petitioner : Mr.A.Robinson

For Respondent : Mr.K.K.Kannan
Standing Counsel

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Standing Counsel appearing for the respondent Corporation.



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2.The petitioner was allottee of Shop No.16 in D-Block at Bharathiyar Commercial Complex situated in Periyar Bus stand. Under smart city development project, a new shopping complex has been put up. The petitioner seeks preference when shops are allotted after new complexes are constructed. The earlier occupants filed writ petitions before the Hon'ble Division Bench. Vide order dated 17.12.2018, the Hon'ble Division Bench had passed the following order:

“(iv) The order dated 17 December 2018 reads thus:-

The Writ Petitions are posted today, pursuant to our earlier order dated 13 December, 2018.

2. The particulars submitted by the Commissioner, Madurai Corporation, indicates that 224 original lessees have given undertaking to vacate the premises on or before 31 December, 2018. The legal heirs of the original allottees numbering 26 have also given undertaking. The Corporation received 151 undertaking from those who have entered into a partnership with the original allottees. The Corporation is yet to receive the undertaking affidavit from 45 allottees.

3. The time for submission of unconditional undertaking is extended upto 31 December, 2018. The allottees must discharge the rent as undertaken by them earlier. The question of recognition of the partnership and other issues could be decided



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by the Commissioner. In case of identifying alternative place by the existing allottees, the same shall be considered on merits by the Commissioner.

4. Post on 4 January, 2019 for filing further report by the Commissioner, Madurai Corporation.”

3.The petitioner had cleared the arrears by 13.11.2018 itself. However, the undertaking letter was given only on 10.01.2019. The petitioner wants the respondent to give acknowledgement for the same.

4.The learned Standing Counsel raises two fold objections:

a) The first is that the petitioner never filed any undertaking letter and that there is no proof for the same.

b) The second objection is that the submission of the undertaking letter even if the petitioner's version is taken to be correct is beyond the cut off date.

5.On the own showing of the petitioner, the undertaking was submitted only on 10.01.2019. It is beyond the cut off date. Therefore, the petitioner has to necessarily move the Hon'ble Division Bench by filing an Miscellaneous Petition or independent Writ Petition. I am not in a position to grant relief to the petitioner.



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6. Granting aforesaid liberty to the petitioner to move the Hon'ble Division Bench, this writ petition is disposed of. There shall be no order as to costs.

28.02.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

The Commissioner,
Madurai Corporation,
Madurai.



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G.R.SWAMINATHAN, J.

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