



W.P. (MD) No.1717 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 30.01.2023

PRONOUNCED ON : 20.03.2023

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD).No.1717 of 2023
and
W.M.P(MD).Nos. 1540 & 1541 of 2023**

M.Sankarasubramanian

...Petitioner

Vs

**1.The Director General of Police
Law and Order
Office of the Director General of Police
Chennai 600 004**

**2.The Commissioner of Police
Tirunelveli City Police Office
Tirunelveli 627 002**

**3.The Deputy Commissioner of Police (East)
Tirunelveli City Police Office
Tirunelveli 627 002**

**4.The Estate Officer /The Assistant Commissioner of Police
City Crime Record Bureau
Tirunelveli City 627 002**



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5.The District Collector/Chairman, Planning Committee
Tirunelveli District
Collectorate
Tirunelveli 627 009

6.The Commissioner
Tirunelveli Municipal Corporation
Tirunelveli

...Respondents

Prayer : Writ Petition has been filed under Article 226 of Constitution of India to issue a writ of Certiorarified Mandamus, to call for the records in proceedings No.E2/0440/2022 dated 10.01.2023 on the file of the 6th respondent herein and quash the same as illegal and consequently direct the respondents to take appropriate action on the basis of the representation given by the petitioner dated 02.01.2023 and may remove the unauthorised construction made by the 6th respondent and his agents at Palayamkottai Bharathi Nagar Police Quarters premises on merits and in accordance with law.

For Petitioner	: Mr.M.Sankarasubramanian (Party-in-person)
For R1 to R4	: Mr.S.Manikandan Government Advocate (Crl.Side)
For R5	: Mr.M.Sarangan Additional Government Pleader
For R6	: Mr.S.P.Maharajan Standing Counsel



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ORDER

(Made by **R.VIJAYAKUMAR,J.**)

The present Public Interest Litigation has been filed by a dismissed Grade-II Police Constable challenging an order passed by the 6th respondent wherein he had rejected the request of the writ petitioner for removal of encroachment in Palayamkottai Bharathi Nagar Police Quarters Premises at Tirunelveli.

2. According to the writ petitioner, the Police Quarters Premises at Palayamkottai Bharathi Nagar was demolished in the year 2019 and the said vacant site belongs to the Police Department. The 6th respondent who is the Commissioner of Tirunelveli Municipal Corporation has put up temporary market shops by using tin sheet sheds at the cost of Rs.98.50 lakhs in the said premises. The encroachers have proposed to occupy the shops which have been unauthorizedly constructed. The petitioner sent a representation to the 6th respondent herein on 02.01.2023. The said representation was rejected under the impugned order by the 6th respondent herein on 10.01.2023 stating that the premises in dispute belongs to the Government and the Corporation had decided to shift the shops in Gandhi Market area temporarily to the Police Quarters



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premises for construction of new shops under the Smart City Scheme.

Therefore, the construction of temporary shops in the Police Quarters premises cannot be considered to be an encroachment. This order is under challenge in the present writ petition.

3.From the averments in the writ affidavit, it could be seen that the petitioner was a Grade-II Police Constable and he was dismissed from service for misconduct. The petitioner was once residing in the said Quarters. After his dismissal from service, he had refused to vacate the premises. Thereafter, invoking the provisions of Tamil Nadu Public Premises Eviction of Unauthorised Occupants Act 1975, the Quarters of the petitioner was taken possession and due to dilapidated nature, all the Quarters were demolished in the year 2019 and the entire premises remains vacant now.

4.The averments in the writ affidavit indicate that the petitioner is making allegation as against the various superior Police Officers because of his personal animosity towards them in the conduct of the disciplinary proceedings which culminated in his dismissal from his service and eviction from the police Quarters. We do not find any public interest whatsoever in the present writ petition.



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5.The learned Government Advocate has produced the records which indicate that the Tamil Nadu Police Housing Corporation Ltd., has initiated a project for construction of new Quarters in the said premises and so far no work order has been issued. In the meantime, the Commissioner of Tirunelveli Municipal Corporation has addressed a letter to the District Collector on 29.07.2022 seeking his permission to put up temporary shop in the vacant Police Quarters so that dilapidated shops in the Gandhi Market could be demolished under the Smart City Scheme. Till new shops are constructed in the Gandhi Market, the temporary shops could be utilized in the interest of the general public. The District Collector in turn had addressed a letter to the Police Commissioner, Tirunelveli City on 30.07.2022 requesting him to hand over the said premises. Another letter was addressed by the Police Commissioner, Tirunelveli Corporation on 05.08.2022 to the Director General of Police informing him that the premises are being handed over to Tirunelveli Corporation for putting up temporary shops in the Police Quarters premises with a condition that the vacant possession of the premises will be handed over within a period of 24 months from 03.08.2022. In case, if the work order is issued for construction of new Police Quarters, within 6 months from the date of such work order, the premises should be handed over to the Police Department.



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6.The above said communication of the second respondent in the writ petition will clearly indicate that the Police Quarters premises has been handed over to the 6th respondent in order to put up temporary shops for a period of 24 months. Pursuant to the said permission, the Corporation has put up temporary shops in order to relocate the dilapidated shops in the Gandhi market. Therefore, it is clear that the construction of the temporary shops in the Police Quarters premises can never be considered to be an encroachment and it is an arrangement between the two departments to utilize a public property for the welfare of the general public as a temporary measure. Therefore, we do not find any illegality or infirmity in the order passed by the 6th respondent herein rejecting the request of the writ petitioner for removal of the alleged encroachment.

7.The writ petitioner being a dismissed Grade-II Police Constable who was once an occupant of the said Police Quarters (which was demolished in the year 2019) has filed the present writ petition not in Public Interest but only to wreck vengeance as against the respondents 1 to 4 herein. The entire averments in the writ petition will clearly disclose the mala fide intention on the part of the writ petitioner in camouflaging his personal interests under the garb of Public Interest Litigation.



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8.This Court does not find any merit in the writ petition and the same is dismissed with cost of Rs.10,000/- to be paid to the sixth respondent within a period of four (4) weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

(D.K.K.J.,)

(R.V.J.,)

20 .03.2023

NCC: Yes/No
Index :Yes/No
Internet :Yes/No
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**D.KRISHNAKUMAR, J.
AND
R.VIJAYAKUMAR, J.**

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Pre-delivery Order made in
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