



W.P(MD)No.2880 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.2880 of 2023

and

W.M.P.(MD)No.2663 of 2023

M.Paraman

... Petitioner

Vs.

1.The District Collector,
Madurai,
Madurai District.

2.The Secretary,
Madurai Agricultural Marketing Committee
Department of Agricultural Marketing and Agri Business,
Madurai, Madurai District.

3.Sekar

4.Pandiraman

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order in Na.Ka.No.A2/2001/2022 issued by the second respondent dated 27.01.2023 and quash the same.



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For Petitioner : Mr.S.Srinivasa Ragavan
for Mr.K.Sureshkumar

For Respondents : Mr.M.Lingadurai
Special Government Pleader for R1 & R2

ORDER

Heard the learned counsel on either side.

2. The second respondent issued the impugned notice dated 27.01.2023 calling upon the petitioner to remove himself from the petition mentioned shop that is located within the premises of the second respondent.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to interfere in the matter. The impugned notice is pursuant to the order dated 06.01.2023 in W.P.(MD)No.28387 of 2022 filed by one Pandiraman. The said Pandiraman has been shown as fourth respondent herein. The petitioner's counsel alleged that the said Pandiraman had indulged in suppression of material facts. He pointed out that Pandiraman's vendor Thiru.Sekar filed O.S.No.590 of 2018 on the file of the Additional District Munsif Court, Madurai Town and obtained an order of interim injunction in



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I.A.No.713 of 2018. Questioning the same, the petitioner and another filed C.M.A.No.10 of 2019 before the first Additional Sub Judge, Madurai and vide order dated 09.12.2021, the interim order obtained by Sekar was set aside and vacated. The petitioner's counsel would point out that this vital development that had taken place in favour of the writ petitioner was totally suppressed before this Court. He also pointed out that in Pandiraman's writ petition, the present petitioner was not made a party.

4. I do endorse the stand of the writ petitioner's counsel that some relevant facts were not brought to the notice of this Court. However, it is equally true that Pandiraman was not a party in W.P.(MD)No.28387 of 2022. But then, this Court did not pass an order straight away at the admission stage. The second respondent was summoned and the relevant facts were placed before this Court. After fully hearing the second respondent herein, the following order was passed:-

“4.It is also admitted in the counter that one M.Selvam and M.Paraman are causing obstructions. It appears that the second respondent is not acting in the matter in view of the pendency of O.S.No.1480 of 2021 on the file of the II Additional Subordinate Court, Madurai. So long as there is no restraint order against the second respondent, the second respondent need not have regard to the pendency of the civil suit.

5. It is clarified by the learned Special Government Pleader appearing for the respondents that no interim order has been granted against the marketing



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committee in the said civil suit. I therefore direct the second respondent to exercise their statutory power and cause removal of the obstructions. This shall be done after notice to the obstructors. The entire exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. If the instruction issued by the second respondent is not complied with, the second respondent can very well avail police aid.”

5. This Court had only called upon the second respondent to satisfy herself that there has been causing of obstruction and only thereafter, cause its removal. This Court had only mandated the second respondent to exercise her statutory power. Even this was directed to be done only after due notice to the obstructors. This safeguard was provided so that the obstructors could move this Court for relief. The impugned eviction notice is dated 27.01.2023. The second respondent served the eviction notice through registered post with acknowledgement due. Notice was delivered at the petitioner's address on 28.01.2022. Notice appears to have been received by the petitioner's father. Obviously, an adult member in the family had received it. The second respondent cannot be expected to do anything more than this. The writ petition came to be filed only on 10.02.2023.

6. The learned counsel appearing for the petitioner would state that Pandiraman's vendor Sekar and the writ petitioner and Selvam are brothers. There was an agreement to jointly do business and they were accordingly doing



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their business. Sekar had unilaterally sold the shop in favour of Pandiraman.

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7. I posed a specific question to the learned counsel appearing for the petitioner as to whether the petitioner is having license in his name. It is not in dispute and it cannot be disputed that license stood only in the name of Sekar. It is quite possible that Sekar had some informal or even formal arrangement with his brother. Such arrangement among the brothers cannot be said to be binding on the authority. The authority will go only by the terms of the license. When the license is in the name of Sekar, any other person occupying the shop without the licensee's consent has to be considered and treated only as obstructor. The statutory authority has exercised her statutory power in the manner known to law. Notice was issued as per the order of this Court. Though the petitioner was not heard before this Court disposed of W.P. (MD)No.28387 of 2022, I am more than satisfied that no injustice had been eventually done to the petitioner. If the petitioner feels that he is having some right, he can very well establish the same in the manner known to law. The dismissal of this writ petition will not cast any cloud on the petitioner's right.



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G.R.SWAMINATHAN, J.

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8. With this observation and with the aforesaid liberty, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

13.02.2023

Index : Yes / No
Internet : Yes/ No
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To

1.The District Collector,
Madurai,
Madurai District.

2.The Secretary,
Madurai Agricultural Marketing Committee
Department of Agricultural Marketing and Agri Business,
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