



W.P.(MD) No.5926 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.P.(MD) No.5926 of 2022
and
W.M.P.(MD)No.4657 of 2022**

Y.Velan

: Petitioner

-vs-

1.The Commissioner,
Madurai Municipal Corporation,
Aringar Anna Building,
Tallakulam, Madurai.

2.The Commissioner of Police,
Madurai City,
K.Pudur, Madurai.

3.Pasumpon Muthuramalinga Thevar Auto Nilayam,
Through its the President,
Manikandan

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 and 2 herein to remove the encroachment made by the third respondent's members by encroaching (Parking Autorickshaws) on the Public road in front of the petitioner's property at Ward No.10, T.S.No.2787/2 and its Door No.1/1, P.T.Rajan, B.B.Kulam, Madurai based on the representations dated 18.02.2022 and 16.03.2022.



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For Petitioner : Mr.R.Ramadurai

For Respondents : Mr.S.Vinayak
Standing Counsel for R1

Mr.M.Veeranthidran
Government Advocate (Crl. Side) for R2

Mr.S.Srikanth
for APN Law Associates for R3

ORDER

[Order of the Court was made by S.S.SUNDAR, J.]

This Writ Petition is filed for issuance of Writ Mandamus directing the respondents 1 and 2 to remove the encroachment made by the third respondent's members by encroaching on the public road in front of the petitioner's property at Ward No.10, T.S.No.2787/2 and its Door No.1/1, P.T.Rajan, B.B.Kulam, Madurai.

2.The case of the petitioner is that he is the owner of the commercial complex namely, Karthick Complex in Door No.1/1 in P.T.Rajan, B.B.Kulam, Madurai. The petitioner appears to have put up a commercial complex and has also let out five shops at the ground floor on monthly rental basis. It is his case that the first floor and the second floor were also rented out. The further case of the petitioner is that the commercial complex is lying in the busy junction of B.B.Kulam and that the width of



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the road is approximately 25 feet. The grievance of the petitioner is that the members of the third respondent are parking their Autos just in front of the petitioner's commercial complex by encroaching into the public road. The further case of the petitioner is that the members of the third respondent are causing hindrance to the free passage of his tenants and the petitioner. Since the commercial complex is lying in the commercial locality, the petitioner's tenants were also put to serious prejudice on account of permanent parking of atleast three number of Autos owned and had by the members of the third respondent.

3. This Court finds that the parking of vehicles in public road may not attract the provisions of either Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975 or the Tamil Nadu Land Encroachment Act 1905 or the Tamil Nadu Urban Local Bodies Act, 1998. However, the permanent blocking/obstruction by members of the third respondent would cause serious prejudice to the petitioner. It is now reported by the official respondents that the members of the third respondent will park at any time atleast 3 number of Autos just in front of the commercial complex. It appears to be a willful act just to cause hindrance to the persons who are carrying on business with their commercial shops in the commercial complex put up by the petitioner. Though the conduct of members of the third respondent affects the civil right, the permanent parking of vehicles



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belonging to members of the third respondent in a public street cannot be permitted which will in turn affect the owner of the property abutting the road. Though the encroachment appears to be temporary, it will cause permanent and affect the livelihood of any one who will have free access with their own property abutting the public road.

4. In that view of the matter, this Court finds that the intentional conduct of the members of the third respondent will be termed as injurious to public. The members of the third respondent appears to have sufficient space just opposite to the commercial complex. In such circumstances, the third respondent may approach the respondents 1 and 2 for allotment of the space. The respondents 1 and 2 may consider the representation of members of the third respondent for allotment of permanent space either in the area, which is just opposite to the present property of the petitioner or any other place in the vicinity depends upon by considering the convenience of public as well as the feasibility. It is open to the second respondent to take severe action against the members of the third respondent, in case they still continue parking their vehicle just to prevent the shop owners in the petitioner's commercial building to maintain free access from the public road. The third respondent shall immediately remove the board that has been installed in the place just in front of the commercial complex of the petitioner within a period of one week from the



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date of receipt of a copy of this order. The third respondent shall not install any board in any place without permission or license from the Corporation.

5. With the above observations and directions, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [D.B.C., J.]

30.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

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2.The Commissioner of Police,
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