



CRL MP(MD) No.5586 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Monday, the Seventeenth day of July Two Thousand and Twenty Three
PRESENT
The Hon`ble Mr.Justice K.MURALI SHANKAR
CRL MP(MD) No.5586 of 2023
IN
CRL OP(MD) No.3723 of 2023

SENGUTTUVAN

... Petitioner / 3rd Respondent

Vs

1 THE BRANCH MANAGER
STATE EXPRESS TRANSPORT CORPORATION TAMIL NADU LTD,
THANJAVUR.

REP BY ITS BRANCH MANAGER
S.PERUMAL,

... 1st Respondent / Petitioner

2 THE DISTRICT SUPERINTENDENT OF POLICE,
THANJAVUR,
THANJAVUR DISTRICT.

... 2nd Respondent / 1st Respondent

3 THE INSPECTOR OF POLICE
THANJAVUR POLICE STATION,
THANJAVUR DISTRICT.

... 3rd Respondent / 2nd Respondent

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Recall the order passed by this Honble High Court in Crl O.P (MD) No. 3723 of 2023 and dismiss the criminal original petition.

Prayer in CRL OP(MD). 3723/ 2023 :

To grant adequate police protection to the properties of the corporation in order to prevent any damages while vacating 3rd Repondent from illegal corporation of the petitioners premises in Re-Survey.No.3330, Town Survey No.1471 and 1472 Thanjavur Town, Thanjavur District by considering the representation of the petitioner, dated 07.01.2023.

<https://www.mhc.tn.gov.in/judis>



CRL MP(MD) No.5586 of 2023

Order : This criminal miscellaneous petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.RAJA.KARTHIKEYAN, Advocate for the petitioner and of Mr.S.C.HEROLD SINGH, Advocate on behalf of the Respondent No.1 and of Mr.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondents No.2 and 3, the court made the following order:-

RESERVED ON	22.06.2023
PRONOUNCED ON	17.07.2023

The above petition has been filed seeking orders to recall the order passed by this Court in Crl.O.P.(MD)No.3723 of 2023 dated 27.02.2023 and dismiss the criminal original petition.

2. The first respondent/petitioner has filed a petition in Crl.O.P.(MD)No.3723 of 2023, invoking Section 482 Cr.P.C., seeking orders for granting police protection to the properties of the Corporation in order to prevent any damages while vacating the petitioner/third respondent from illegal occupation of the first respondent/petitioner's premises in Re-survey No.3330, Town Survey No.1471 and 1472 Thanjavur Town, Thanjavur District by considering the representation of the first respondent/petitioner dated 07.01.2023 against the respondents 2 and 3/respondents 1 and 2 and the petitioner/third respondent. This Court, on hearing the learned counsel for the first respondent/petitioner and the learned Government Advocate (Criminal Side) for the respondents 2 and 3/respondents 1 and 2 and



CRL MP(MD) No.5586 of 2023

taking note of the petitioner/third respondent's possession, despite the expiry of the extended licence period, directed the third respondent/second respondent to consider the first respondent/ petitioner's representation and pass orders within a period of one week from the date of receipt of a copy of that order. Admittedly, the petitioner, who is the third respondent in CrI.O.P.(MD)No.3723 of 2023, was not heard and no notice was sent to him. Aggrieved by the said order, the petitioner has now come forward with the above petition to recall the order passed by this Court dated 27.02.2023 and to dismiss the said criminal original petition.

3. The facts that are not in dispute are:-

The first respondent Transport Corporation has called for a tender to lease out 1800 square feet of land in bus stand premises of State Transport Corporation and issued a notification and thereby called for tenders. The petitioner has become a successful bidder and hence, licence to run two-wheeler parking was granted for a period of one year from 01.09.2018 to 31.08.2019. Before the expiry of the licence period on 01.09.2019, the petitioner has made an application on 26.08.2019 to extend the licence period and accordingly, licence period was extended for a period of one year from 01.09.2019 to 31.08.2020 by increasing 5% of the existing rent. Subsequently, on expiry of the said licence period, the same has been renewed for a period between 01.09.2020 and 31.08.2021 by receiving 5% of the increased rent. The



CRL MP(MD) No.5586 of 2023

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first respondent has issued a notice dated 14.07.2021 to the petitioner to vacate the premises on 31.08.2021 at 05.00 p.m., the date on which the licence period got expired. The petitioner has filed a writ petition in W.P.(MD)No.15008 of 2021 challenging the notice dated 14.07.2021 and a learned Judge of this Court, vide order dated 24.08.2021, directed the petitioner herein to submit a fresh representation seeking extension of licence by citing the closure of the bus stand due to covid restrictions within a period of one week from the date of receipt of a copy of that order and the first respondent herein was directed to consider the same and pass orders within a period of 30 days from the date of receipt of the representation. In pursuance of the said direction, the petitioner's representation was considered and the licence period was extended for a period of 7 months between 01.09.2021 and 31.03.2022. Subsequently, at the request of the petitioner, licence period was extended from 01.04.2022 till the new tender would be confirmed.

4. It is the specific case of the first respondent Transport Corporation that they have called for tender and confirmed the same, that in pursuant of the same, they have sent a notice dated 22.07.2022 directing the petitioner to vacate the premises on 31.07.2022 at 05.00 p.m., that the petitioner's injunction application filed in the suit in O.S.No.219 of 2021 on the file of the Principal District Munsif Court, Thanjavur was ordered to be dismissed on 22.09.2022, that though the petitioner has preferred an



CRL MP(MD) No.5586 of 2023

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appeal in C.M.A.No.5 of 2022 on the file of the Principal Sub Court, Thanjavur, no interim order was granted, that thereafter, the first respondent has sent a notice dated 03.01.2023 directing the petitioner to vacate the premises on 06.01.2023 at 05.00 p.m., that since the petitioner has not complied with the notice demand, the first respondent was constrained to lodge a petition with third respondent on 06.01.2023 and with second respondent on 07.01.2023 seeking police protection to take the possession of their premises and that since the police has not taken any action, the first respondent was forced to file the petition in Crl.O.P.(MD)No.3723 of 2023 before this Court for orders directing the respondents 2 and 3 herein to provide police protection.

5. The learned counsel appearing for the petitioner would submit that though the third respondent was directed to consider the first respondent's representation and pass orders within a period of one week from the date of receipt of a copy of the order dated 27.02.2023 passed in Crl.O.P.(MD)No.3723 of 2023, the third respondent has neither issued any notice nor conducted any enquiry, that though the petitioner was not having any knowledge about the said order, the third respondent, without any notice or intimation, had thrown away the petitioner from the licensed premises, that the police authorities have not followed the principles of natural justice, that the third respondent has not passed any orders in pursuance of the



CRL MP(MD) No.5586 of 2023

specific^s direction of this Court and that the police authorities, without understanding the order of the Court, they had thrown away the petitioner from the said premises and thereby, exceeded the jurisdiction.

6. No doubt, the learned Additional Public Prosecutor appearing for the respondents 2 and 3 would fairly admit that the third respondent has not passed any orders in pursuance of the direction of this Court, but whereas, considering the representation of the first respondent and taking note of the attendant circumstances, the third respondent has provided police protection for taking the possession of the premises and that there is nothing wrong or illegal in granting police protection.

7. Admittedly, the petitioner was only granted licence to run the two-wheeler parking. As already pointed out, licence period which commenced on 01.09.2018 was extended till 31.03.2022 and thereafter was extended till the new tender would be confirmed. The first respondent has sent a notice dated 22.07.2022 directing the petitioner to vacate the premises on 31.07.2022.

8. It is pertinent to note that the petitioner has earlier filed a civil suit in O.S.No.219 of 2021 seeking mandatory injunction directing the first respondent to extend the licence period by 3 years and also filed an application for temporary injunction in I.A.No.156 of 2021 and initially, ad-interim injunction was granted and



CRL MP(MD) No.5586 of 2023

that subsequently, after enquiry, injunction petition came to be dismissed on 22.09.2022. The petitioner, aggrieved by the dismissal of the injunction petition, has preferred an appeal in C.M.A.No.5 of 2022 and the same is pending on the file of the Principal Sub Court, Thanjavur. Admittedly, no interim order was passed.

9. The learned counsel appearing for the first respondent would contend that the suit itself is not maintainable, as per Section 15 of Tamil Nadu Public Premises (Eviction of Unauthorized Occupants) Act, 1975.

10. As rightly contended by the learned counsel appearing for the first respondent, since the petitioner was granted licence and after the expiry of the licence as well as the extended licence period, this Court is also at loss to understand as to how the civil suit came to be filed.

11. It is not in dispute that after filing the suit, the petitioner has filed another writ petition in W.P.(MD)No.16933 of 2022 challenging the communication of the first respondent herein dated 22.07.2022 and to quash the same and consequently, to direct the first respondent to extend the lease period for further period of 3 years for running the two wheeler parking in Thanjavur Bus Stand and a learned Judge of this Court, taking note of the submission made by the learned counsel for the petitioner that the civil suit in O.S.No.219 of 2021 was pending, dismissed the writ petition, leaving open the rights and remedies to the petitioner herein.



CRL MP(MD) No.5586 of 2023

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12. As rightly pointed out by the learned counsel appearing for the first respondent, the petitioner has filed two writ petitions, original suit and interlocutory applications with an ulterior motive to get the extended licence period and that since the extended licence period was already over, the petitioner can only be considered as a rank trespasser and he is not entitled to remain in possession even for a day.

13. No doubt, as rightly pointed out by the learned counsel appearing for the petitioner, the third respondent, without passing any orders, has provided police protection for taking possession of the premises and as such, the above action can be termed as improper, but not illegal.

14. At this juncture, it is necessary to refer a common law principle that the Courts will not assist a party whose case based upon an immoral or an illegal act. In *Holman Vs. Johnson*, Lord Mansfield has held that “no court will lend its aid to a man who founds his cause of action upon an immoral or an illegal act”. It is also necessary to refer the legal maxim “*Ex Turpi Causa Non Oritur Actio*” meaning that no action can arise from an illegal act.

15. As rightly contended by the learned counsel appearing for the first respondent, since the possession was already taken, even if the said order is recalled, no purpose will be served for the petitioner.



CRL MP(MD) No.5586 of 2023

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16. It is pertinent to note that even in the absence of the police protection, the first respondent authorities are having power to vacate the licensed premises by themselves and even by using necessary force as the extended licence period was already over.

17. According to the learned counsel appearing for the first respondent, the above petition came to be filed with an ulterior motive to get back the possession indirectly.

18. As rightly contended by the learned counsel appearing for the first respondent, the petitioner cannot be allowed to perpetuate his illegality.

19. Considering the above, this Court has no hesitation to hold that the above petition seeking to recall the order of this Court dated 27.02.2023 passed in Crl.O.P. (MD)No.3723 of 2023 is absolutely devoid of merits and the same is liable to be dismissed.

20. In the result, this Criminal Miscellaneous Petition is dismissed.

sd/-
17/07/2023

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/08/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



CRL MP(MD) No.5586 of 2023

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THANJAVUR.

2 THE DISTRICT SUPERINTENDENT OF POLICE,
THANJAVUR, THANJAVUR DISTRICT.

3 THE INSPECTOR OF POLICE
THANJAVUR POLICE STATION,
THANJAVUR DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL MP(MD) No.5586 of 2023

IN

CRL OP(MD) No.3723 of 2023

Date :17/07/2023

ED/VRS/SAR- (21/08/2023) 10P / 5C

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