



W.P.(MD)Nos.9230 and 9462 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 15.11.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)Nos.9230 and 9462 of 2021

and

W.M.P.(MD)Nos.6959, 7188 and 7969 of 2021

W.P.(MD)No.9230 of 2021

P.Manikandan

... Petitioner

vs.

1.The Commissioner,
Thoothukudi Municipal Corporation,
Thoothukudi.

2.The Managing Director,
Thoothukudi Smart City Limited,
Thoothukudi City Municipal Corporation Building,
113, Palayamkottai Road,
Thoothukudi – 628 001.

3.P.Thirumaniraja

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent to allot the vacant land belonging to the respondent corporation situated near VVD signal (Thimaiyar Colony) for running his shop temporarily during the period when the respondent corporation constructs a new market



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under smart city scheme in the place of the present Chidambaram Nagar market considering the representation dated 21.04.2021 sent to the 3rd respondent on behalf of the shop keepers.

For Petitioner :Mr.G.Prabhu Rajadurai
For Respondents :Mr.N.Anandakumar

W.P.(MD)No.9462 of 2021

Thirumaniraja

... Petitioner

vs.

The Commissioner,
Thoothukudi Municipal Corporation,
Thoothukudi.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Notice dated 07.05.2021 in Na.Ka. No.A16/0029/2021 on the file of the respondent and quash the same as illegal and consequently, to direct the respondent to allot an alternative place situated at near to Essakiamman Koil Ward C, Block 55, in Sy. No. Thoothukudi town and grant time for vacating the present shop by considering the petitioner's representation dated 08.05.2021 within a stipulated period as framed by this Court.

For Petitioner :Mr.G.Prabhu Rajadurai
For Respondent :Mr.N.Anandakumar



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COMMON ORDER

The issues involved in both these Writ Petitions can be dealt with together and accordingly, this common order is passed.

2.The petitioner in W.P.(MD)No.9230 of 2021 has sought for the issue of Writ of Mandamus directing the respondent Corporation to allot the vacant land belonging to the Corporation for running a shop temporarily during the period when the respondent Corporation is undertaking the process of constructing a new market under Smart City Scheme.

3.The petitioner in W.P.(MD)No.9462 of 2021 has challenged the impugned notice dated 07.05.2021 issued by the Commissioner of Tuticorin Municipal Corporation and also sought for a consequential direction to the respondents to allot an alternate place and grant time for vacating the shop by considering the representation made by the petitioner on 08.05.2021.



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4. When the matter was taken up for hearing, the learned Standing Counsel appearing on behalf of the respondent Corporation submitted that the shops have already been demolished and the Corporation is now nearing the completion of the construction of new shops under the Smart City Scheme.

5. Both the petitioners had approached this Court earlier and filed W.P.(MD)Nos.8422 and 9629 of 2020 to forbear the respondent Corporation from evicting them from their shops without providing a suitable alternate place to run their business. These Writ Petitions were disposed by the Division Bench of this Court by order dated 31.03.2021 and the relevant portions are extracted hereunder:

“4. It is further submitted by the petitioners in W.P.(MD) NO. 8422/2020 that they are the sub lessees of the petitioner in W.P.(MD) No. 9629/2020.

5. We are dealing with only the license and not the lease. W.P. (MD) No.8422/2020 being the sub-lessees do not have any semblance of right.

6. It is also to be seen that the process has begun by evicting half of the licensees. The work order has also been issued. The work has to be executed in a time bound manner. Therefore, neither on law nor on facts, the petitioners/sub lessees are entitled to continue. However, taking into consideration the facts of the case, the respondent shall consider the request of the petitioner in W.P.(MD) No.9629/2020 for alternative accommodation to carry out the business till the completion of the smart city project subject to the conditions that have to be



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imposed. The said decision will have to be taken by the official respondents within eight weeks from the date of receipt of a copy of this order. Till such time, the petitioners in W.P.(MD) No. 8422/2020 will have to be continued. The submissions made by the learned Additional Advocate General that the request of the petitioner in W.P.(MD) No.9629/2020 would be considered favorably subject to the availability stands recorded.”

6.Insofar as the petitioner in W.P.(MD)No.9462 of 2021 is concerned, this Court directed the respondent Corporation to consider to provide alternate accommodation to carry out the business till the completion of the Smart City project. Pursuant to this direction, the representation made by the petitioner was considered and the petitioner was informed regarding the alternate place, where he can carry on business. It is brought to the notice of this Court by the learned Standing Counsel for the respondent that the petitioner did not choose to do the business in the alternate place and in the meantime, the existing old construction had already been demolished.

7.Insofar as the petitioner in W.P.(MD)No.9230 of 2021 is concerned, he was only a sub-lessee and the Division Bench had already held that he does not have any semblance of right.



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8. In the light of the subsequent developments, wherein, the existing construction had already been demolished and new construction is nearing completion under Smart City Scheme, the issue that has raised in these Writ Petitions no longer survive.

9. The learned Counsel for the petitioner submitted that since the petitioners were already running the shops in the old building, they should be given some preference while allotting the new shops in the new construction, that is coming into operation under the Smart City Scheme.

10. In the considered view of this Court, this submission made by the learned Counsel for the petitioner cannot be considered, since the petitioners do not have any vested right to get shops allotted in their favour and the petitioners will have to necessarily participate in the auction conducted by the respondent Corporation for leasing/granting licence for the shops. This Court has repeatedly held that shops can be allotted by the Corporation/Municipality only in an open auction and that



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they should augment their income by leasing or granting the licence to run the shops.

11.In the light of the above discussions, no further orders can be passed in these Writ Petitions and these Writ Petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

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

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N.ANAND VENKATESH, J.

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