



W.P(MD)Nos.14060 to 14066 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)Nos.14060 to 14066 of 2023

and

W.M.P(MD)Nos.11894, 11896, 11898, 11900 to 11917 of 2023

W.P(MD)No.14060 of 2023

I.Samuel Raj

... Petitioner

Vs.

1.The Directorate of Town Panchayats,
Kuralagam,
Chennai District.

2.The District Collector / Inspector of Panchayat,
Collectorate,
Thoothukudi District.



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3.The Chairman

Eral Special Grade Town Panchayat,
Eral,
Thoothukudi District.

4.The Executive Officer

Eral Special Grade Town Panchayat,
Eral,
Thoothukudi District.

5.The Junior Engineer

Tamil Nadu Electricity Board,
Eral,
Thoothukudi District.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the impugned eviction notice issued by the 4th respondents in his proceedings in Na.Ka.No.52/2022 dated 30.06.2022 and a reminder notice in Na.Ka.No.52/2022 dated 24.04.2023 and quash the same as illegal and further direct the 3 and 4 respondents herein to consider the representation dated 02.06.2023 and pass appropriate orders not to



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interfere with the petitioner's right of lease in Samuel Store, Shop No. 1/1 Bus Stand Front Side, Eral, Thoothukudi District.

In all Writ Petitions

For Petitioners : Mr.G.Mohan Kumar

For Respondents : Mr.N.Muthu Vijayan - for R1 & R2
Special Government Pleader
Mr.S.Shaji Bino - for R3 & R4
Special Government Pleader
Mr.Deenadhayalan - for R5
Standing Counsel

COMMON ORDER

Heard Mr.G.Mohan Kumar, learned counsel on behalf of the petitioners herein, Mr.N.Muthu Vijayan, learned Special Government Pleader on behalf of the respondents 1 and 2, Mr.S.Shaji Bino, learned Special Government Pleader on behalf of the respondents 3 and 4 and Mr.Deenadhayalan, learned counsel on behalf of the fifth respondent.



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2. Arguments are advanced with respect to all the Writ petitions and the learned Special Government Pleader, also had instructions in common, with respect to the averments made. Therefore, a common order is passed in all the Writ Petitions.

3. Let me take as an illustration the facts in W.P.(MD) No.14060 of 2023, Samuel Raj Vs. The Directorate of Town Panchayats, Kuralagam, Chennai District, and four others.

4. This Writ Petition has been filed in the nature of a Certiorarified Mandamus seeking interference with the notice issued by the fourth respondent/Executive Officer, Eral Special Grade Town Panchayat, at Thoothukudi District, in Na.Ka.No.52/2022 dated 30.06.2022 and consequential reminder notices also issued after a period of six months and again lastly after a period of six months. The petitioner seeks a direction that continuous possession of the petitioner who is running a shop at the sunshade of the bus stand at Eral in Thoothukudi District, should not be disturbed.



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5. The Writ Petitioner in his affidavit had stated that he is running a shop at the northern side of Eral Bus Stand. He claims possession and enjoyment for the past three decades. There are totally 26 shops in the front side of the bus stand. The fourth respondent appears to have passed a resolution on 25.03.2022 to built Eral Town Panchayat Office in the place where all the shops are now situated. Necessary resolution in this regard had been passed. This aspect was questioned by the learned counsel for the petitioners who drew notice to the reference portion in the impugned order and claimed that no resolution had been passed on that specific date / 25.04.2022.

6. In all the Writ Petitions, the same averments have been made.

7. However, learned Special Government Pleader for the fourth respondent had produced the records relating to resolution and it appears that there has been a typographical error and the resolution was actually dated 25.03.2022 and mistakenly printed as 25.04.2022 in the notice.



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8. At any rate, it does not lie in the mouth of the petitioner to question whether panchayat had passed a resolution or not. That they had passed a resolution is a fact which cannot be denied or disputed. It is also seen that the resolution also refers to not only financial sanction but also actual technical sanction of the amount involved towards cost of such construction. This was in the year 2022. Now we are in June, 2023 and naturally the cost estimate would have escalated. This is a direct effect of the petitioners not refusing to vacate the premises. The first notice was issued on 30.06.2022, granting time for the petitioners to vacate the premises.

9. It is stated by the learned Special Government Pleader who had taken notice on behalf of the respondents 1 and 2 that after 30.06.2022 for a period of six months, the petitioners had also not paid the rent. This compelled the fourth respondent to issue another notice again granting time to the petitioners herein.

10. The learned counsel states that the petitioners had paid the rent, but still that aspect would not come to the rescue of the



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petitioners herein. The right to reclaim the land is an eminent domain of owner of the land. They had leased out the lands for the petitioners who had put up shops.

11. In all the notices, it had been described as (temporary ground rent) "தற்காலிக தரை வாடகை". This would only indicate that from the view point of the fourth respondent, the petitioners' occupation is only temporary in nature which gives a vested right to the fourth respondent to resume possession of the land, if need requires. The need has now been stated and that is for construction of the Town panchayat building. When that requirement is there, the petitioners will necessarily have to give way. They have been in enjoyment for the past three decades even according to the petitioners. They have been given a fairly long run of possession and enjoyment. They cannot claim permanency, owing to that period of enjoyment.

12. At some point, the right will have to come to an end and the petitioners will necessarily have to vacate and handover the possession. I am not interfering with the order. The obligation is placed



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on the petitioners to vacate since nearly one year has passed from the date of first notice, on or before **31.07.2023** voluntarily by themselves, failing which, the fourth respondent may take possession of the shops in manner known to law. The manner known to law is by way of notice which had been already issued to the petitioners herein. No further notice need be issued and possession can be taken.

13. With the above observations, the Writ Petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

15.06.2023

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

RM



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C.V.KARTHIKEYAN, J.

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