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W.P.(MD)NO.24794 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 02.03.2023

PRONOUNCED ON : 25.04.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.24794 of 2022 and
W.M.P.(MD)Nos.18866, 18868 & 18870 of 2022

1. N.Sugumaran (Died)

2. Azhagumozhi Amuthu

(The second petitioner is substituted as legal heir
vide Order dated 12.01.2023 in
W.M.P.(MD)No.932 of 2023)

... Petitioners

Vs.

1. The Government of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Department of Animal Husbandry,
Fort St. George, Chennai – 636 007.

2. The Managing Director,
Tami Nadu Co-operative Milk Producers Federation Ltd.,
No.8, East Govinthapuram,
Dindigul – 624 001.

3. The Commissioner,
Dindigul Municipality,
Dindigul.

... Respondents



Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in Na.Ka.No.3293/Sales/2018 dated 27.10.2022 on the file of the second respondent and quash the same and direct the respondents 2 and 3 to restore the Aavin stall to the petitioner at 80 Feet Road, 12th Cross Main Road, Dindigul, to run the Aavin stall.

For Petitioner : Mr.Rajagopal,
Senior Counsel,
for Mr.M.Rajarajan.

For R-1 : Mr.SRA.Ramachandran,
Additional Government Pleader.

For R-2 : Mr.K.Prabhu,
Standing counsel.

For R-3 : Mr.R.Baskaran,
Additional Advocate General,
assisted by,
Mr.M.Thirunavukkarasu
* * *

ORDER

Heard, Shri.Rajagopal, learned Senior counsel appearing for the petitioners and Mr.R.Baskaran, learned Additional Advocate General, assisted by Mr.M.Thirunavukkarasu appearing for the third respondent and Mr.SRA.Ramachandran, learned Additional Government Pleader appearing for the first respondent and Mr.K.Prabhu, learned Standing counsel appearing for the second respondent.



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2. This writ petition was originally filed by N.Sugumaran. During the pendency of the writ proceedings, he passed away and his wife has come on record. It is not in dispute that Sugumaran was allotted the petition mentioned site to vend Aavin products. Pursuant to the proceedings dated 05.03.2020 issued in his favour, Sugumaran also put up an Aavin stall. The license was subsequently extended vide proceedings dated 10.05.2021.

3. In the petition mentioned site comprised at H-2/M-2, 176, R.M.Colony, 12th Cross, Dindigul, Dindigul Corporation had permitted Aavin to run parlour. Sugumaran was licensed to put up an Aavin stall. The proceedings enclosed in the typed set of papers indicates that the license of Sugumaran was valid till 14.03.2023. While so, on 27.10.2022 Aavin informed Sugumaran that they had received communication from Dindigul Corporation that the site is required for them and that therefore the allotment stood cancelled. Aavin called upon Sugumaran to select an alternative site and shift the stall.



4. On the same date (ie.) on 27.10.2022 during the evening hours, the officials of Dindigul Corporation came to the site along with the police officials and the stall was straightaway demolished by employing heavy machinery. It is relevant to note that Sugumaran was already a cancer patient. His request to the officials to stop the demolition of the stall was not considered. In this background, this writ petition came to be filed.

5. The case was adjourned on several occasions to enable the local body to allot any alternative site for the petitioner. The efforts taken by the learned Additional Advocate General did not bear any fruit. It is relevant to mention here that the council did not approve the resolution proposed by the officials allotting alternative site to the writ petitioner. In these circumstances, this Court will have to necessarily take up the matter on merits.

6. The only question that calls for consideration is whether the demolition carried out by the local body can be said to be legal. The petitioner cannot be considered as an encroacher at all. The site was identified by the local body and Aavin was permitted to run their parlour.



Aavin had given license to Sugumaran to conduct his business. The proceedings were periodically renewed and the license was valid upto 14.03.2023. Pursuant to the permission granted by the Aavin / the second respondent herein, Sugumaran had spent considerable sum of money to install a bunk stall. Therefore, by no stretch of imagination, Sugumaran can be considered as an encroacher. I wanted to know if the third respondent had issued any notice to Sugumaran before carrying out the demolition.

7. I am more than satisfied that the demolition was carried out on 27.10.2022 in the evening hours without complying with the elementary principles of natural justice. Grave loss was caused to Sugumaran. The materials placed before me indicate that Sugumaran was a cancer patient. He died after filing this writ petition. I am told that it would cost not less than a sum of Rs.2,00,000/- to install such a bunk stall.

8. I therefore direct the third respondent to pay a sum of Rs.2,00,000/- (Rupees Two Lakhs only) to Mrs.Alagumozhi Amuthu, wife of Late. Sugumaran the first petitioner herein, as damages. The third respondent had committed a tort by indulging in an illegal act of



demolition. I am conscious that what has awarded is really meagre. This is probably a case which warrants imposition of exemplary cost. I direct the third respondent to pay a sum of Rs.2,00,000/- to the petitioner within a period of four weeks from the date of receipt of a copy of this order.

9. This writ petition stands allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

25.04.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
PMU

To:

1. The Principal Secretary to Government,
Department of Animal Husbandry,
Fort St. George, Chennai – 636 007.
2. The Managing Director,
Tami Nadu Co-operative Milk Producers Federation Ltd.,
No.8, East Govinthapuram, Dindigul – 624 001.
3. The Commissioner,
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G.R.SWAMINATHAN,J.

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