



W.P.(MD)No.24544 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.24544 of 2023

K.B.Durairaj

... Petitioner

versus

1. The District Manager,
Tamil Nadu State Marketing
Corporation Limited (TASMAC),
Pudukottai Region,
Pudukottai District.

2. The Thasildar,
Karambakudi Taluk,
Karambakudi,
Pudukottai District.

3. Kulandaisamy

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the 1st respondent to vacate the TASMAC Shop No.6616 in the petitioner's property situated at Survey No.393/3, Karambakudi Village, Pudukottai District, based on the petitioner's representation dated



W.P.(MD)No.24544 of 2023

24.01.2022 followed by the petitioner's reminder representation dated 19.07.2023 forthwith and handover the property to the petitioner.

For Petitioner : Mr.S.Poornachandran
For R1 : Mr.H.Arumugam,
Standing Counsel
For R2 : Mr.M.Sarangan,
Additional Government Pleader
For R3 : Mr.K.C.Maniyasu

ORDER

The petitioner claims that he is the landlord for the building situated in Survey No.393/3 at Karambakudi Village, Pudukottai District. He has leased out the building to the first respondent for running a TASMAL outlet by way of a rental agreement dated 13.06.2017. The first respondent has deposited the rent amount without any default in the petitioner Bank Account No.37175984604. In the year 2022, the petitioner suffered from paralysis attack and therefore, he has intended to settle the property by way of partition, for which, he made a request to the first respondent to vacate the premises enabling him to effect the partition. Since the first respondent has not considered his request, the petitioner has filed this writ petition.



W.P.(MD)No.24544 of 2023

WEB COPY 2. When this writ petition was taken up for hearing on 10.11.2023, this Court was not inclined to entertain this writ petition and therefore, directed the petitioner to establish as to how this writ petition can be maintainable.

3. Today, when the matter is taken up for hearing, the learned counsel for the petitioner submits that a similar relief was already granted by this Court in W.P.(MD)No.19111 of 2022, dated 30.08.2022.

4. But, in that case, this Court, based on the request made by the District Collector, Madurai that TASMACH shop would be shifted from the disputed premises to an alternative site within a period of four weeks, disposed of the writ petition and that order cannot be used as a precedent for seeking the relief of direction to vacate the TASMACH.



5. The learned counsel appearing for TASMACH has also relied on the order dated 05.09.2014 passed by this Court in W.P.(MD)No.14694 of 2014 filed by a landlord, wherein, this Court has held as follows:

“4. The materials available on record very clearly shows that a lease was granted in favour of TASMACH by the vendor of the petitioner. The petitioner, knowing fully well that the property was in the possession of TASMACH, purchased it. The sale of property in his favour was subject to the lease. Thereafter, the petitioner himself executed a lease agreement in favour of TASMACH. The fact that TASMACH is a Government owned corporation would not give a right to the petitioner to file a Writ Petition for eviction without approaching concerned Civil Court or Rent Controller. In case, the property is situated in a rent control area, the petitioner should approach the Rent Controller. In case it is not a rent control area, necessarily he should approach the Civil Court.

5. The determination of lease cannot be made by filing a writ petition. Writ Petition is not a short-cut method to evict the tenant, whether it is an individual lessee or a Government owned corporation, like



WEB COPY



W.P.(MD)No.24544 of 2023

TASMAC. I am, therefore, of the view that Writ Petition for eviction is not maintainable.”

6. The learned counsel appearing for the 3rd respondent submits that in the partition, this property has been allotted to the 3rd respondent and now, he is the owner of the property. Further, the electricity service connection also stands in his name. By filing this writ petition, the petitioner has attempted to create a record that he is the owner of the property.

7. Since there is a dispute between the landlord and tenant, the petitioner can workout his remedy either before the Civil Court or Rent Control Authority. Accordingly, this writ petition is dismissed. No costs.

27.11.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.



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W.P.(MD)No.24544 of 2023

B.PUGALENDHI, J.

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W.P.(MD)No.24544 of 2023

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