



W.P(MD)No.25613 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.10.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.25613 of 2023

and

W.M.P.(MD)Nos.21797 and 21798 of 2023

B.Ramesh

... Petitioner

Vs.

1.The Commissioner,
Madurai Corporation,
Madurai.

2.The Assistant Commissioner (Revenue),
Madurai Corporation, Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Order in Ma.Sa.1/04258/2016 dated 10.10.2023 on the file of the respondent No.2 and quash the same as illegal and consequentially forbear the respondents from evicting the petitioner without following due process



W.P(MD)No.25613 of 2023

of law without considering the petitioner's application No.002353 dated 16.10.2023 for renewal / fresh application to run the Tea Shop in an extent of 8X6 at the corner of the Arasaradi, Kaaranesan Street, Madurai.

For Petitioner : Mr.Lajapathi Roy, Senior Counsel,
For M/s.Lajapathi Roy and Associates.

For Respondents : Mr.K.K.Kannan,
Standing Counsel.

ORDER

Heard the learned senior counsel for the writ petitioner and the learned standing counsel for Madurai Corporation.

2.The petitioner's brother / B.Senthil Kumar had been granted license to run the petition mentioned shop belonging to the corporation. His license was cancelled on 19.01.2016. Questioning the same, Senthil Kumar filed W.P.(MD)No.2295 of 2016. During the pendency of the writ petition, Senthil Kumar passed away. The present writ petitioner namely, Thiru.B.Ramesh got himself substituted in the said writ petition. The writ petition was allowed on 02.12.2022 in the following terms:-



W.P(MD)No.25613 of 2023

WEB COPY

“2. Admittedly, the petitioner has been granted petty shop license in the year 2010 and he is running the said petty shop. The license has been cancelled under the impugned order on certain grounds. Admittedly, the order impugned in the writ petition has been passed without issuing any notice or conducting any enquiry.

3. In view of the violation of principles of natural justice, the order impugned in the writ petition is set aside. The matter is remitted back to the file of the respondent herein. The respondent shall pass orders, after giving due opportunity to the writ petitioner.”

Pursuant to the remand order, the impugned order came to be passed. By the impugned order, the petitioner had been directed to hand over the shop in question. The second respondent did not hold any enquiry as directed vide order dated 02.12.2022 in W.P.(MD)No.2295 of 2016. Instead, the authority had gone on the footing that the petitioner is not the legal heir of the deceased Senthil Kumar. The second respondent failed to note that the petitioner was very much permitted to prosecute W.P.(MD)No.2295 of 2016 filed by Senthil Kumar. This single



W.P(MD)No.25613 of 2023

circumstance is sufficient to come to the conclusion that the petitioner had stepped into the shoes of the deceased B.Senthil Kumar. The ground on which the impugned order has been passed cannot be accepted. It is set aside and the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

20.10.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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W.P(MD)No.25613 of 2023



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W.P(MD)No.25613 of 2023

G.R.SWAMINATHAN, J.

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W.P(MD)No.25613 of 2023

20.10.2023