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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :05.12.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.26358, 26359, 27349, 27350 and 28602 to 28604 of 2023

and

W.M.P.(MD) Nos.22689 to 22694, 23492, 23493, 23498 to 23500, 24654, 24655, 24663, 24664, 24665, 24659 and 24662 of 2023

In W.P.(MD) No.26358 of 2023:

A.Amal Raj

... Petitioner

Vs.

The Madurai Corporation,
represented by its Commissioner,
Corporation Building,
Arignar Anna Maligai,
Madurai District.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the order in Ae4(E6)/007663/2023 dated 22.09.2023 passed by the respondent and quash the same as illegal and consequently direct the respondent to provide six months time to the petitioner to vacate the shop and to provide alternate place till the completion of the construction and to



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give priority in the allotment of shops after the construction of Multi-complex car parking and shops in the Mayor Muthu Complex Panagal salai road, Madurai.

For Petitioner : Mr.Arul Vadivel @ Sekar Senior Counsel
for Arulvadivel Associates
For Respondent : Mr.Anbunidhi
Standing Counsel

COMMON ORDER

Heard the learned Senior Counsel appearing for the writ petitioners and the learned Standing Counsel appearing for the Madurai Corporation.

2.The writ petitioners are presently occupying the shops belonging to Madurai Corporation at Mayor Muthu Complex, Panagal Salai Road, Madurai. The Commissioner has issued notice calling upon the petitioners to clear the rental arrears and also vacate the premises. Challenging the same, these writ petitions were filed. Taking into account the over all facts and circumstances of the case, this Court granted an interim order. To vacate the same, the Commissioner, Madurai Corporation,



has filed the petition. The learned Senior Counsel for the writ petitioners and the learned Standing Counsel reiterated their respective contentions as projected in the pleadings.

3.I carefully considered the rival contentions and went through the materials on record.

4.One aspect is beyond dispute. The petitioners will have to necessarily surrender the possession, when the shop in question is required for public interest.

5.In the counter affidavit filed by the Corporation, it has been stated as follows:-

“6.It is submitted that in continuation of the proceedings of the Superintending Engineer, a notice has been issued to the 18 shop holders including the petitioner herein in the Mayor Muthu Shopping Complex for vacating the said premises on 22.09.2023 in his proceedings in A4 (E6)/007663/2023 and for cancellation of the petitioner's Shop Rent Assessment No.115/6230007. Hence, the petitioner filed the present writ petition.



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7.It is further submitted that after successful completion of the said tender process, on 17.10.2023, this respondent issued work order to the said contractor by fixing a period for the execution of work from 17.10.2023 to 16.04.2025 under Capital Grant Fund (CGF) for the year 2022-2023 in Roc.No.E6/Est.No. (CGF)007663/23 dated 17.10.2023.

8.It is submitted that in order to start and complete the said construction work by the contract, the premises occupied by the petitioner and others have to be immediately vacated and handed over to the contractor. It is further submitted that as per Clause 51 of the Tender cum Auction Notification issued by our office vide proceedings in Na.Ka.No.23668/2021/R-1 dated 15.07.2021, it was notified in the Madurai District Gazette, wherein, a condition was stipulated stating that after allotment of any shop, whenever the same is required for the interest of public by Madurai corporation, the Commissioner has power to recover the said shop without any prior notice after adjusting the amounts on proportionate basis and the said shop owner has no right to claim any compensation or interest. It is further submitted that whenever the Public Auction-cum-Tender call for by the respondent Corporation, the shop holders have right to participate in the public auction and the rent will be fixed on the date of market value. The shop holders have no right to claim the shop.”



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6.The petitioners point out that there appears to have been some change in circumstances. It is also stated that the original plan envisioned by the Corporation has undergone a change. The Highways Department is proposing to put up an over bridge in the vicinity. It is not known, if this contention of the writ petitioners is correct.

7.It is also pointed out by the petitioners that the Corporation had demolished similar commercial complexes in the other parts of the City, but failed to put up any fresh construction. Examples have been specifically given. Likewise, several reconstructed complexes are lying vacant without any allotment.

8.These aspect of the matter will have to be definitely taken note of by the Commissioner, Madurai Corporation.

9.Taking into account all the aspects of the matter, these writ petitions are disposed of in the following terms:



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i) All the petitioners will have to necessarily clear the rental arrears, if any, as demanded by the Corporation. This should be done within 7 days. If the petitioners fail to clear the rental arrears within 7 days from the date of receipt of the order copy, they cannot claim any benefit under this order.

ii) The petitioners immediately after clearing the rental arrears shall submit individual representations before the Commissioner, Madurai Corporation, for allotment of alternative shops in the vacant complexes elsewhere in the City.

iii) The Commissioner, Madurai Corporation will not put the fact that the petitioners are not the original allottees against the petitioners. The fact remains that the petitioners are presently in occupation and if they demonstrate their *bona fides* by clearing the arrears, they can very well be recognized for the purpose of considering for allotment in any alternative accommodation.

iv) The Commissioner, Madurai Corporation, is also called upon to take a call, if the original plan has really undergone any modification and if the Commissioner is sticking to his stand that the building has to be



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demolished, the petitioners will be given exactly 15 days notice. The issuance of notice will stand deferred for 10 days. While issuing such notice, the Commissioner will also consider the issue of allotting the alternative accommodation to the petitioners.

v) I make it clear that any such revised order passed by the Commissioner, Madurai Corporation will not be amenable to challenge. The Commissioner in his order will take into account all the contentions to be put forth by the petitioners in their respective representations.

vi) As regards the right of the petitioners to allot the shops after the complex is reconstructed, it will be governed by the provisions of the Tamil Nadu Urban Local Bodies Rules, 2003.

No costs. Consequently, connected Miscellaneous Petitions are closed.

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NCC :No
Internet :Yes
Index :No

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