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W.P. No. 3176 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2024

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 3176 of 2024

and

W.M.P. No. 3443 of 2024

S.Swaminathan

... Petitioner

-VS-

1. The Commissioner,
Coimbatore Corporation,
West Zone,
Coimbatore – 641035.

2. The Assistant Commissioner,
Coimbatore Corporation,
West Zone,
Coimbatore – 641035.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the Second Respondent in Na. Ka. No. 1877/2022/A1 dated 29.01.2024 and quash the same and consequently direct the Second Respondent to offer alternative accommodation to the Petitioner under the same lease terms and consequently provide preferential right and priority in allotment of shops in the new commercial building complex proposed to be constructed in Arokiasamy Road, West Zone, Coimbatore Corporation.



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For Petitioner : Mr. L.P.Maurya

For Respondents : Mr. N.Umapathy

ORDER

Heard Mr. L.P.Maurya, Learned Counsel for the Petitioner and Mr. N.Umapathy, Learned Counsel for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner is in occupation of Shop No. 2, Asst No. 2420183, Arokiasamy Road, West Ward – 071, West Zone, Coimbatore (hereinafter referred to as 'the Shop' for short), belonging to the Respondents. According to the Petitioner, the current lease period of the shop is from 01.04.2021 to 31.03.2024, but the Second Respondent by Proceedings in Na. Ka. No. 1877/2022/A1 dated 29.01.2024 called upon the Petitioner to immediately vacate from the premises on account of its dilapidated condition and that it was proposed to demolish and re-construct the building where the shop is located, which is assailed in this Writ Petition.



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3. When the matter is taken up for hearing today, Learned Counsel for the Petitioner undertakes on behalf of the Petitioner that he would vacate from the shop on 31.03.2024 when the lease period automatically lapses and his continuance in the property would be at his own risk. He has also made an endorsement to that effect in the court record.

4. In view of the aforesaid submission made, it is made clear that if the Petitioner fails to vacate from the shop by 31.03.2024, the Respondents are not precluded from taking necessary action for evicting him in accordance with Rule 319 of the Tamil Nadu Urban Local Bodies Rules, 2023, which reads as follows:-

319. Occupation of a municipal land or building or of a land or building vested in the municipality without a licence or lease.— If the occupation of a municipal land or building or of a land or building vested in the municipality is without a licence or lease or continues beyond the period of the said licence or lease, the occupant shall be liable to be evicted under provisions of the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975 (Tamil Nadu Act 1 of 1976).



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It is needless to add here that if the Petitioner voluntarily vacates from the premises by the said date and satisfies the requirement of Rule 316 of the Rules, his claim for preferential allotment in the newly constructed shop shall be considered in accordance with law.

In the result, the Writ Petition is disposed with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed. No costs.

12.03.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 05.06.2024.

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To

1. The Commissioner,
Coimbatore Corporation,
West Zone,
Coimbatore – 641035.
2. The Assistant Commissioner,
Coimbatore Corporation,
West Zone,
Coimbatore – 641035.



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P.D. AUDIKESAVALU, J.

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