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W.P.No.30289 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 09.10.2024

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THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

W.P.No.30289 of 2024 and

WMP No.32969 of 2024

1. A.T.Kannan

2. R.Sri Kumudha

... Petitioners

Vs.

1. The Secretary to Government,
Municipal Administration and
Water Supply Department,
Fort St. George, Chennai 600 009.

2. The Commissioner,
The Corporation of Krishnagiri,
Krishnagiri 635 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India seeking for issuance of writ of Certiorarified Mandamus, calling for records pertaining to the impugned order dated 04.10.2024 bearing Na.Ka.No.A2/1772/2024 on the file of the second respondent and to quash the same and direct the second respondent to give proper opportunity of hearing to us as ordered by this court, by order dated 30.09.2024 made in W.P.No.29463 of 2024, based on the Tamil Nadu Urban Local Bodies



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For the Petitioners : Mr.Om Prakash,
Senior Counsel
for Ms.D.Kamatchi

For the Respondents : Mr.J.Ravindran,
Additional Advocate General
Assisted by
Mr.K.Karrthik Jagannath
Govt. Advocate
for first respondent

: Mr.J.Ravindran,
Additional Advocate General
Assisted by
Mrs.S.Anitha,
Standing Counsel
for second respondent

ORDER

This writ petition has been filed to quash the order passed by the second respondent dated 04.10.2024 bearing Na.Ka.No.A2/1772/ 2024 and consequently direct the second respondent to give proper opportunity of hearing to the petitioners, as ordered by this court in W.P.No.29463 of 2024, dated 30.09.2024.

2. The case of the petitioners is that they are husband and wife and as partners, they are running the Departmental Store and food stalls in



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the name and style of " Metro Bazaar" at Municipal Shopping Complex, New Bus Stand, Krishhnagiri, owned by the second respondent, based on the lease agreement dated 25.06.2009 entered into between them and the second respondent. Subsequently, lease amount was enhanced periodically and the lease period was also extended from time to time.

2.2. In such circumstances, the second respondent had passed an order dated 27.09.2024, directing the petitioners to vacate the premises within 24 hours and the said order was challenged before this court in W.P.No.29463 of 2024. The said writ petition was disposed of on 30.09.2024, by observing that no opportunity of hearing was given to the petitioners before passing the order and hence, consequential notices as well as the final impugned order dated 27.09.2024 were quashed and also the second respondent was directed to pass orders, after giving opportunity to the petitioners.

3. Learned Senior Counsel appearing for the petitioners submitted that certified copy of the said order in W.P.No.29463 of 2024, dated 30.09.2024 was produced by the petitioners and the same was received



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by the second respondent on 04.10.2024 at 10.00 a.m. Pursuant to the above order dated 30.09.2024, enquiry was conducted on 04.10.2024 around 6.30 to 7.00 p.m. in a hurried manner without de-sealing the shop; and without giving any opportunity to the petitioners to produce their relevant documents, which were kept inside the shop, once again the second respondent has issued the present impugned order on 04.10.2024 itself at 11.00 p.m., which is nothing but a verbatim of the earlier order dated 27.09.2024. Learned counsel for the petitioners further submitted that without obeying the earlier order passed by this court in W.P.No.29463 of 2024, dated 30.09.2024, the second respondent has passed the present impugned order, asking the petitioners to vacate the premises, after restoring to the old condition and hand over the shop within 24 hours; and has de-sealed the shop for 24 hours for removing the things.

4. In such circumstances, an urgent lunch motion was moved before this court during vacation and this court, vide order dated 07.10.2024, has directed the second respondent to appear before this court on 09.10.2024 at 2.15 p.m. through video conferencing, apart from



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filing a report before this Court explaining the reasons for giving only 24 hours time to vacate the premises, quoting the provisions of law for taking such decision.

5. Today, Mr.S.Stanley Babu, Commissioner of Corporation of Krishnagiri/second respondent is appearing before this court through video conference. However, on behalf of him, no report has been filed, giving answer for the questions raised by this court in the order dated 07.10.2024 regarding fixation of 24 hours time to the petitioners to vacate the commercial shop run by them.

6. Mr.J.Ravindran, learned Additional Advocate General appearing for the respondents would contend that the lease between the petitioner and the second respondent has come to an end on 30.09.2024 and the second respondent is at liberty to pass orders either to extend the lease period or to vacate the premises.

7. Learned counsel appearing for the petitioners submitted that the petitioners are having right to file an appeal before the first respondent



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under Section 305 of the Tamil Nadu Urban Local Bodies Act and Rules as against the impugned order dated 04.10.2024. Learned counsel for the petitioners further submitted that, now, they have received instructions that the second respondent will consider their request for extension of the lease period.

8. As no such order has been passed by the second respondent regarding extension of the lease period, it is left open between the petitioners and the respondents to work out the remedy for extension of lease period, which falls under the domain of the second respondent alone.

9. It is submitted by learned counsel for the petitioners that as on date, there is no rental arrears to be paid by the petitioners to the second respondent and further more, in lieu of the lease agreement, nearly a sum Rs.25,00,000/- was paid by the petitioners, as advance and the same is vested with the second respondent.

10. Learned Additional Advocate General appearing for the



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respondents submitted that already four show cause notices dated 21.06.2024, 06.08.2024, 16.09.2024 and 27.09.2024 were issued to the petitioners, for which, they have not responded. He further submitted that in the event of filing appeal by the petitioners, the same will be considered by the first respondent and appropriate orders will be passed on merits and in accordance with law, if possible, within two weeks. Further, regarding the submission made by the learned counsel for the petitioners that there is a possibility for extension of lease period, learned Additional Advocate General has raised serious objection.

11. This court, while posing a specific question to the second respondent, who appeared through video conference that under what authority and provisions of law, only 24 hours time has been given to the petitioners to vacate the property, the second respondent submitted that he has power to terminate the lease and direct the petitioners to vacate the premises immediately. The second respondent has not shown any rule or law enabling him to direct the petitioners to vacate within 24 hours. The second respondent has not filed any report, despite a direction of this court. However, he asserted that he has absolute power



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to evict the petitioners without giving reasonable time. Such a statement, which shows the authoritative power wielding against the petitioners, who are sitting in the premises as lessee, cannot be accepted. Unless the lease in existence between the petitioners and the second respondent come to an end in accordance with law, there is a presumption that the lease is in existence between the petitioners and the second respondent.

12. The statement made by the second respondent is not in consonance with the Tamil Nadu Urban Local Bodies Act and Rules. The first respondent may initiate disciplinary proceedings as against the second respondent, if the first respondent deems fit and proper.

13. After dictating the order, learned Additional Advocate General submitted that, the statement made by the second respondent is wrong. The second respondent, who is appearing through video conference also apologized for making such a statement. The attitude of the second respondent is highly condemnable and such behavior cannot be accepted in any means.



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14. Recording the submission made by the learned counsel for the petitioners and learned Additional Advocate General, this writ petition is disposed of by directing the petitioners to file an appeal against the impugned order before the first respondent, within a period of one week from the date of receipt of a copy of this order. On receipt of such appeal, it is for the first respondent to dispose of the same within a period of two weeks, as per the undertaking made by the learned Additional Advocate General before this court. There shall be no order as to costs. WMP No.32969 of 2024, seeking permission to file a single writ petition is ordered. Connected WMP Nos.32970 , 32971 of 2024 are closed.

09.10.2024

Index : Yes / No
Internet: Yes/No
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To

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Municipal Administration and
Water Supply Department,
Fort St. George, Chennai 600 009.
2. The Commissioner,



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The Corporation of Krishnagiri,
Krishnagiri 635 002.

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N. SENTHILKUMAR, J.

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