



WEB COPY



WP.Nos.35618 of 2023 buton.,

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.02.2024

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P Nos.35618, 35624, 35640, 35642, 35648, 35622 of 2023 &
158 of 2024

and

WMP.No.35561, 35566, 35568, 35591, 35592, 35595, 35596, 35603,
35605, 35565, 35567 of 2023 &173 of 2024

W.P No.35618 of 2023

N.Kalichamy

G.Kandavel

...

Petitioners

/vs/

1. The Commissioner of Municipal Administration,
Urban Administrative Building,
No. 3. MRC Nagar, Raja Annamalai Puram,
Chennai - 600 028.

2. The Regional Director of Municipal Administration,
Tiruppur Region,
Tiruppur.

3. The Commissioner,
Dharapuram Municipality,
Dharapuram,
Tiruppur District.

...

Respondents



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Prayer: Writ Petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for records pertaining to the impugned notice bearing No. Na.Ka. No.6077/ 2023/ A3 dated 08.12.2023 issued by the 3rd respondent and quash the same as arbitrary illegal and unconstitutional.

In all WPs.

For Petitioner : Mr.T.Mohan, Senior Counsel
for N.K.Ponraj

For Respondents : Mr.T.Chezhiyan
Additional Government
Pleader for RR1 & 2
: Mr. P.Srinivas for R3

COMMON ORDER

These Writ Petition has been filed on challenging the auction notice of the 3rd respondent dated 08.12.2023 in Na.Ka.No.6077/2023/A3.

2. On 08.01.2024 the following order has been passed:

“Learned counsel for the petitioners inform that efforts are being taken to amicably resolve the dispute between the parties before the next hearing.”

3. However, on mentioning that there is some urgency in this matter in view of the notice issued by the 3rd respondent on 03.02.2024 by demanding the petitioners to vacate the shop, these matters are listed today and heard.

4. When the parties were advised to resolve the dispute between themselves amicably, the 3rd respondent ought not to have chosen to evict the



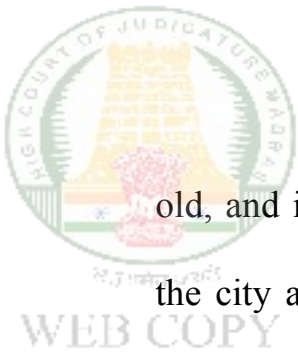
petitioners so urgently by giving 24 hours notice on 03.02.2024. The petitioners, who are the occupants of the shops of the 3rd respondent municipality, were compelled to file these Writ Petitions in view of the impugned notice dated 08.12.2023 bearing No.Na.Ka.No. 6077/2023/A3.

5. The impugned notice has been given by demanding the petitioners to vacate the shops within 15 days in view of the renovation that is proposed to be undertaken on the premises where the shops are situated.

6. The learned counsel for the petitioners submitted that the petitioners have been given with a licence in respect of the shops until 2026. However, the learned counsel for the respondents clarified that not all the petitioners have been given with the licence till 2026.

7. However, it is learnt that some of the petitioners continued to be in occupation in view of some interim orders granted in their favour in some other proceedings. Whatever may be the case, the situation has now arisen to vacate the premises in view of the renovation that is going to be undertaken in the premises.

8. Attention was brought to the notice of this Court that the shops are very



old, and in view of the other developments that have taken place in and around the city and also taking into account of the dilapidated condition of the shops, they have to be demolished and reconstructed with modern amenities. It is also not denied by the petitioners that the shops were very old. In that case, the petitioners are also expected to render their cooperation for effecting the renovation of the shops, by vacating the premises.

9. It is understandable that the petitioners who have their licences in force until 2026 will be affected if they are compelled to vacate the shop immediately. As an alternate arrangement, the petitioners were given with the assurance that they would be shifted to the new shops which are now under construction on the eastern side of the bus stand once they are completed.

10. It is submitted that the said building will be completed within a period of two months and hence, the petitioners can continue to occupy these shops till the construction on the other side is over and thereafter they will be shifted there.

11. However, difficulty continues in view of the limited number of shops under construction on the eastern side of the bus stand. Only 13 shops are being constructed on the eastern side. As stated already, not all the petitioners who have filed this writ petition have their licence in force until 2026.



12. Since 13 shops can only be allotted to out of the 18 petitioners, it is inevitable for the 3rd respondent to adopt some fair and objective criteria to choose the most deserving persons among the petitioners for the allotment. It is needless to state that one of the several features that can be taken into consideration is the payment of rent without any default, the length of the licence, and all other relevant factors. Since the petitioners have been given with the assurance that they will not be evicted until the construction of the shops on the eastern side of the bus stand is completed, this petition can be disposed. However, it is submitted by the learned counsel for the petitioner that once the new shops are constructed, they would be let out to anyone, including the petitioners, only by way of an open auction.

13. The fact remains that some of the petitioners who are already in occupation of the demised premises have their licences subsisting until 2026. The petitioners are compelled to vacate the premises, not due to any default on their part. Since it is the respondents who have chosen to demolish or renovate the building, they have asked the petitioners to vacate the premises. So far as the petitioners in whose favour the licence is still subsisting cannot be asked to participate in the auction once again. However, it cannot be fair on the part of the



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petitioners to also pay the same licence charges for the new shops with additional amenities that are going to be constructed on the northern side of the bus stand.

14. In that case, it is up to the respondents to fix a fair licence fee and not to resort to any open auction. It is needless to state that the said arrangement is also an interim arrangement and the petitioners, who would be accommodated on the eastern side complex, will once again be accommodated on the northern side complex. In any case, it is made clear that no fresh auction can be conducted for the new shops during the subsistence of the licence.

In view of the above observations, these Writ Petitions are **disposed**. No costs. Consequently, connected miscellaneous petitions are closed.

06.02.2024

Index : Yes/No
Internet : Yes/No
Speaking/ Non-speaking
Neutral: Yes/No
jrs



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