



W.A.(MD)Nos.672 & 673 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2024

CORAM:

THE HONOURABLE **MR.JUSTICE R.SURESH KUMAR**

AND

THE HONOURABLE **MR.JUSTICE G.ARUL MURUGAN**

W.A.(MD)Nos.672 & 673 of 2024

and

C.M.P.(MD)Nos.4947 and 4949 of 2024

V.Neduncheliyan

... Appellants in both W.As.

-Vs-

The Commissioner,
Karur City Municipal Corporation,
Corporation Office, Karur.

... Respondent in both W.As.

COMMON PRAYER: Appeals filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 28.02.2024 made in W.P.(MD)Nos.4336 & 2813 of 2024 on the file of this Court.

For Appellant : Mr.D.Nallathambi

For Respondent : Mr.K.Balasubramani,
Standing Counsel
(in both W.As.)



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COMMON JUDGMENT

[Judgment of the Court was delivered by *R.SURESH KUMAR, J.*]

The appellant is the writ petitioner, who moved the present Writ Appeals against the order passed by the Writ Court dated 28.02.2024 made in W.P.(MD)Nos.4336 and 2813 of 2024.

2.The petitioner / appellant had been given licence by way of ground rent of 60 sq.ft., land belongs to the respondent Municipal Corporation.

3.The petitioner / appellant's case was that he had put up construction in 60 sq.ft., allotted to him and he had been paying ground rent properly. Despite that without any notice under Rule 302 of the Tamil Nadu Urban Local Bodies Rules, 2023 (hereinafter referred to as 'the Rules'), the respondent Municipal Corporation suddenly came and demolished the said construction and in this regard, when an order was passed prior to the demolition on 16.02.2024, that was challenged before the Writ Court in the said Writ Petition in W.P.(MD)No.4336 of 2024 and the said Writ Petition was dismissed by the learned Single Judge through the impugned order dated 28.02.2024. Against which, the present Writ Appeals have been filed.



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4.The learned counsel appearing for the appellant would submit that after the dismissal of the Writ Petitions, the entire building has been demolished without even giving time for the petitioner / appellant to move these Writ Appeals.

5.The learned counsel for the appellant canvassed the point that if at all any contraventions of the lease conditions or licence conditions, for which, if the respondent Municipal Corporation wants to cancel the licence, that should have been made by the respondent Municipal Corporation only after issuing notice and by giving opportunity of being heard under Rule 302 of the Rules. However, admittedly, without having issued any such notice, straightaway, the said order dated 16.02.2024 had been issued. When that was questioned, the learned Single Judge ought to have considered the said position. However, the learned Single Judge without considering the said legal position since has dismissed the said Writ Petition by citing some other reason, the impugned order is liable to be interfered with, he contended.

6.However, the learned Standing Counsel for the respondent Municipal Corporation, on written instructions given by the respondent Municipal Corporation, has submitted that only for 60 sq.ft., alone licence has been given to the petitioner / appellant on ground rent basis and instead of 60 sq.ft., he had occupied further 100 sq.ft., where he had put up construction and let it for



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sub-lease. Therefore, it is clearly violation of the licence conditions, which warranted for cancellation of the licence. Therefore, such an order dated 16.02.2024 was issued by the respondent Municipal Corporation. When it was questioned, the learned Single Judge did not entertain the Writ Petition and has dismissed the same. Therefore, following the said legal proceedings, the respondent Municipal Corporation proceeded to demolish such construction put up by the petitioner / appellant both in 60 sq.ft., licensed area as well as 100 sq.ft., occupied area.

7.Though it has been denied by the learned counsel for the appellant that the petitioner / appellant has violated the licence conditions by encroaching upon 100 sq.ft., more than of the 60 sq.ft., allotted to him, it is become evident that the petitioner / appellant himself has given a representation on 29.12.2017, requesting the respondent Municipal Corporation to fix rent ie., ground rent for additional 100 sq.ft., which has been occupied by him. However, the respondent has not entertained such petition and no ground rent has been fixed by ratifying the encroachment made by the petitioner / appellant for additional 100 sq.ft.

8.If this is a factual matrix, where the petitioner / appellant has not only confined with 60 sq.ft., allotted to him by way of licence, but also encroached



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upon 100 sq.ft., belonging to the respondent Municipal Corporation without any permission, it can easily be construed as a violation of the licence conditions.

9.If there is any violation or contraventions of the licence conditions, Rule 302 of the Rules can be invoked and action can be taken to cancel the licence under Section 317 of the Act.

10.In this context, assuming that notice should have been given under Rule 302 of the Rules, in the present case, since it is an admitted fact that he had contravened the licence conditions, if any notice is given to the petitioner / appellant, it would be an empty formality.

11.The law is well settled in this regard that if it is an admitted case, the question of violation of principles of natural justice does not arise. Therefore, such a formality to issue a notice under Rule 302 of the Rules is nothing but an empty formality. Therefore, non-issuance of such notice under Rule 302 of the Rules would not defeat the action that has been taken subsequently by the respondent, which culminated in the order dated 16.02.2024, which is impugned before the Writ Court.



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12. Even though this point has not been considered by the learned Single Judge, it is not the case as to whether this point was canvassed before the learned Single Judge. Assuming that this point has not been considered, that would not cure the defect of the contraventions of the licence conditions of the petitioner / appellant. Therefore, on this ground, the action taken by the respondent Municipal Corporation, which culminated in the order dated 16.02.2024, is to be justified. Therefore, dismissal made by the learned Single Judge through the impugned order is also justified. Accordingly, these Writ Appeals fail, hence, the same are dismissed.

13. It is made clear that if at all the petitioner / appellant wants to seek any redressal by way of compensation for the construction that he has put up in 60 sq.ft., allotted to him by way of licence by the respondent Municipal Corporation, it is open to him to approach the concerned legal forum in the manner known to law. No costs. Consequently, connected miscellaneous petitions are closed.

[R.S.K., J.] & [G.A.M., J.]
15.04.2024

NCC : Yes / No
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