



W.P(MD)No.12489 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.01.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.12489 of 2020

and

W.M.P(MD)No.10667 of 2020

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... Petitioner

Vs.

1.The District Collector,
Theni District,
Theni.

2.The Executive Officer,
Devathanapatti Town Panchayat,
Theni District.

3.Sahul Hameed

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating with the impugned notice in Na.Ka.No.84/2020, dated 10.09.2020 issued by the second respondent and quash the same as it is arbitrary and illegal.



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For Petitioner : Mr.R.Suriyanarayanan
For Respondents : Mr.M.Lingadurai
Special Government Pleader
for R.1 & R.2

Ms.N.Juliet Latha
for Mr.Narayanan for R.3

ORDER

Heard both sides.

2.The third respondent is the landlord while the writ petition is the tenant under him. There is civil dispute pending between them.

3.However, the issue on hand is not based on the civil dispute. The local body has taken the view that the petitioner's commercial activities constitute an act of nuisance and posing health hazard. The petitioner is running a mutton shop in the petition mentioned premises.

4.The local body had called upon the petitioner to remove the mutton shop. The local body would also take the stand that the petitioner has committed encroachment. To this effect, the impugned notice dated 10.09.2020 has been issued.



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5.It is seen that the petitioner was not put on notice before passing the impugned order. Hence the impugned notice dated 10.09.2020 will be treated only as a notice. The petitioner is given three weeks from the date of receipt of a copy of this order to offer his response. The second respondent will hold an enquiry. In the said enquiry, it is open to the third respondent also to participate. The second respondent shall pass final order within a period of three months from the date of receipt of a copy of this order. I make it clear that I have not gone into the merits of the matter. The contentions of the writ petitioner as well as the third respondent are left open.

6.This writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

03.01.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
MGA

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G.R.SWAMINATHAN, J.

MGA

To

- 1.The District Collector,
Theni District,
Theni.
- 2.The Executive Officer,
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Theni District.

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