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W.P.(MD)NO.13279 OF 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.13279 of 2024

Ma.Vetrivel

... Petitioner

Vs.

1. The District Collector,
Thanjavur District, Thanjavur.
2. The Commissioner,
Thanjavur Municipal Corporation,
Thanjavur.
3. The Assistant Director,
Directorate of Town and Country Planning,
Thanjavur District, Thanjavur.
4. The Revenue Divisional Officer,
Thanjavur District,
Thanjavur.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order in Na.Ka.No.E2/70806/2023 made by the first respondent dated 10.06.2024 and quash the same and consequently direct the first respondent not to prevent the petitioner from initiating conversion of a portion of Muththamizh Aringar Mu.Kurunanithi Maanaatu Arangam / Maanaatu Maiya Katitidam(Convention Centre), Thanjavur into a cinema theatre.



For Petitioner : Mr.T.Antony Arulraj
For R-1,R-3&R-4 : Mr.G.V.Vairam Santhosh,
Additional Government Pleader.
For R-2 : Mr.N.Dilipkumar
* * *

ORDER

Heard both sides.

2. The petitioner herein applied to the District Collector, Thanjavur seeking location approval for setting up a permanent cinema theatre. The petitioner's request was rejected by the District Collector on 10.06.2024 primarily citing the objections received from the Thanjavur Municipal Corporation. The stand of the respondents is assailed in this writ petition on the grounds set out in the affidavit filed in support of this writ petition.

3. The learned counsel appearing for the petitioner reiterated all of them and called upon this Court to set aside the impugned order and grant relief as prayed for.

4. Per contra the learned Additional Government Pleader appearing for the District Collector as well as the learned Standing



counsel appearing for Thanjavur Municipal Corporation submitted that the impugned order does not call for any interference.

5. The learned Standing counsel appearing for the Corporation submitted that what was leased out in favour of the petitioner is only the convention center and that it was not proposed to permit the petitioner to convert the same into a Cinema Theatre. The learned Additional Government Pleader would also state that since the local body which is the owner of the property has raised objections, the impugned order was rightly passed.

6. Thanjavur Corporation issued notification dated 31.07.2023 calling for applications from the eligible tenderers for taking the petition mentioned premises styled as convention center. The petitioner's offer of Rs.4,42,43,044/- was the highest and the Corporation council passed a resolution confirming the tender in favour of the petitioner. Subsequently, an agreement was entered between the parties on 10.11.2023. The stand of the local body is that the convention center was meant to be used only as convention center and not as Cinema theatre. It is further pointed out that the agreement dated 10.11.2023 has not been registered.



7. There cannot be any force in the first objection. One of the clauses in the agreement dated 10.11.2023 states that the Corporation permits the petitioner to carry on lawful business including entertainment business. As on date, this agreement has not been formally cancelled by the local body. If according to the local body, the petitioner has acted in contravention of the agreement terms or if the agreement requires registration, then it is the local body that must take appropriate steps at the appropriate time. Without having done so, it is not open to the local body to raise these technical objections in this writ petition.

8. As far as the District Collector is concerned, what has to be seen is whether the applicant is in lawful possession of the premises or not. Admittedly, the petitioner was inducted as an occupant by the Thanjavur Municipal Corporation. Proper tender notification was issued. The petitioner turned out to be the highest bidder. Thereafter, an agreement was entered into between them. The agreement specifically provides conducting entertainment business or any other lawful business. Running Cinema theatre cannot be said to be unlawful by any standard. The local body without issuing any due notice to the petitioner for cancellation of the agreement has raised objection to the petitioner's application.



9. When the petitioner earlier filed W.P.(MD)No.5612 of 2024

seeking approval, it was disposed of by me on 27.03.2024 in the following terms:-

“4. This Court cannot at the very first instance call upon the statutory authority to waive the statutory requirement. It is seen that the first respondent had sent a communication dated 27.11.2023, calling upon the second respondent to pass a resolution and offer their objections, if any. It is unfortunate that even though full four months have elapsed, the second respondent had not responded.

5. I can understand if the construction is to come up on any private site belonging to the petitioner. But, it is not so. The site belongs to the Thanjavur Municipal Corporation. It had entered into lease agreement with the petitioner on 10.11.2023. Possession was handed over to the petitioner on the same day. The petitioner was selected as a lessee in a tender process. The petitioner had remitted a sum of Rs.5.5 Crores. When such a heavy investment has been made by the petitioner, it is not appropriate on the part of the second respondent to sit over an application of this nature. The second respondent is directed to respond immediately to the communication issued by the first respondent dated 27.11.2023, or at any rate within a period of ten (10) days from the date of receipt of a copy of this order.

6. It is not necessary that the first respondent



should feel bound by the stand that may be taken by the second respondent. The first respondent shall take into account all the relevant factors, namely,

- a) The site belongs to the Corporation,
- b) Possession was given to the petitioner only by the Corporation,
- c) An appropriate lease agreement had been entered into by the petitioner,
- d) The petitioner had deposited a sum of Rs.5.5 Crores with the second respondent and
- e)The petitioner has made a substantial investment to the tune of Rs.8 Crores.

All these aspects should be borne in mind and an appropriate order shall be passed by the first respondent in accordance with law within a period of three (3) weeks thereafter. If the second respondent does not respond as mandated above, the first respondent shall not wait any further.

7. The learned Standing Counsel for the second respondent points out that since the Model Code of Conduct has come into force, council cannot be convened. He points out that the objection to be submitted by the second respondent will have to be forwarded along with the resolution to be passed by the Corporation Council. It is stated that till 19.04.2024, there is no possibility of convening the Council. This situation is entirely the own making of the second respondent. Therefore, for this



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procedural and technical difficulty, the petitioner cannot be made to suffer. The Commissioner, Thanjavur Municipal Corporation shall offer a response and that would be considered as proper compliance of the statutory requirement.”

10. I hold that the second respondent is not justified in raising the objections. The Corporation is a state instrumentality. It must exhibit fairness in all its dealings. It cannot conduct itself as a private landlord. Having received a huge amount from the petitioner, the Corporation cannot put spokes in the wheel. In this view of the matter, the impugned order is set aside. The matter is remitted to the file of the first respondent. The first respondent will bear in mind all the other relevant factors and pass an appropriate order within a period of four weeks from the date of receipt of a copy of this order. This writ petition stands allowed on these terms. No costs.

01.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN,J.

PMU

To:

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Thanjavur District,
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2. The Assistant Director,
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Thanjavur District, Thanjavur.
3. The Revenue Divisional Officer,
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