



WP(MD). No.19739 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 22/08/2024

CORAM

The Hon`ble Mr.Justice N.SATHISH KUMAR

WP(MD). No.19739 of 2024

M.Periyadurai

... Petitioner

Vs

1. The District Collector,
Tirunelveli District.

2. The Commissioner,
Vikramasingapuram Municipality,
Tirunelveli.

3. The Joint Commissioner,
Office of the Joint Commissioner,
Hindu Religious and Charitable Endowments,
Tirunelveli.

4. The Inspector of Police,
V.K.Puram Police Station,
Tirunelveli District.

5. The Executive Officer,
Arulmighu Papanasam Sivan Thirukovil,
Papanasam,
Ambasamuthiram Taluk,
Tirunelveli District.

... Respondents



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PRAYER :- Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Mandamus directing the respondents no. 1 and 2 to permit the petitioner to run his shop which is in the land of Papanasam Sivan Thirukovil, Ambasamuthiram Taluk, Tirunelveli on the basis of the petitioners representation dated 02.08.2024.

For Petitioner : Mr.M.Perumal,
For Respondents : Mr.H.Arumugam for R2
Mr.VR.Shanmuganathan for R5
Mr.K.S.Selvaganesan for R3
Additional Government Pleader
Mr.A.Kannan for R1
Additional Government Pleader
Mr.M.Vaikkam Karunanidhi for R4
Government Advocate (Crl.side)

ORDER

The petitioner has filed this writ petition for a Mandamus directing the respondent nos. 1 and 2 to permit the petitioner to run his shop, which is running in the premises of Papanasam Sivan Thirukovil, Ambasamuthiram Taluk, Tirunelveli on the basis of the petitioner's representation dated 02.08.2024.

2. It is the case of the petitioner that the petitioner is running a small shop and selling bangles and other items near the 5th respondent temple. He was paying the rent to the temple. When he was running the



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said shop for more than 15 years, the respondents 3 and 4 are trying to evict the said shop without any notice and hence, it violates Article 21 of the Constitution of India. In this regard, the petitioner has given a representation and since the said representation has not been considered, the petitioner is before this Court.

3. The learned counsels for the respondents, on instructions, would submit that the proceedings of the District Collector has been passed on 05.06.2023 to keep the temple clean. Pursuant to the same, the petitioner and others have been evicted from the said land. In this regard, a public interest litigation has also been filed and this Court by order dated 23.06.2023 dismissed the said writ petition with liberty to assail the order dated 05.06.2023.

4. The learned counsel for the petitioner would submit that he was paying the rent and without proper notice, he should not be evicted and prays that he may be allotted any other place as identified by the Street vendors committee.



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5. The writ petition has been proceeded as if the petitioner is still continuing as a lessee/licensee and selling bangles. The factum of eviction pursuant to the orders of the District Collector is suppressed in the writ petition. The writ petition proceeded as if the respondents are attempting to evict him. At the outset, the writ petition cannot be entertained for suppression of material facts and on that ground, the writ petition is liable to be dismissed.

6. As the petitioner already been evicted pursuant to the orders dated 05.06.2023, his remedy lies elsewhere. Further the petitioner cannot insist as a matter of right that he should be allotted place within the premises of the temple. It is the prerogative of the temple authorities to see that the temple premises are kept clean and accessible to the devotees. Therefore, as a matter of right, the petitioner cannot seek a direction to the respondents to allot alternative place. However, it is for the 2nd respondent Municipality to consider the same and if any place is identified by the street vendors committee and any other suitable place is available, the petitioner may be allotted to that place.



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7. With the above observation, the writ petition is dismissed. No

costs.

22.08.2024

Index : Yes/No
NCC : Yes/No
RR

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