



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.26500 of 2023

and

W.M.P(MD)Nos.22782 & 22783 of 2023 & 84 of 2024

- 1.S.Thangavel
- 2.R.Raja Suresh
- 3.R.Muthirulandi
- 4.P.Nagaraj
- 5.R.Krishnamoorthy
- 6.S.Senthilkumar
- 7.A.Rasu
- 8.D.Murugan
- 9.D.Selvam
- 10.M.Ramkumar
- 11.P.Malaisamy
- 12.G.Mohan
- 13.S.Kamalakannan
- 14.P.Raja
- 15.P.Muthaiah



16.R.Murugeswaran

17.D.Pandi

18.Senthilkumara

... Petitioners

Vs.

1.The District Collector,
Theni District, Theni.

2.The Commissioner,
Chinnamanur Municipality,
Theni District.

... Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to to call for the records pertaining to the impugned notice issued by the second respondent in Na.Ka.No.3747/2023/A2 dated 27.09.2023 and quash the same as illegal and consequently direct the respondents to provide alternative temporary accommodation and also assurance to the petitioners for the re-allotment of shops on completion of the project.

For Petitioner : Mr.M.C.Swamy

For Respondents : Mr.Veerakathiravan,
Additional Advocate General assisted by
Mr.Hema Karthikeyan for R2

Mr.K.S.Selvaganesan,
Additional Government Pleader for R1



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ORDER

Heard both sides.

2.The petitioners are in occupation of the shops belonging to the local body. They have been called upon to vacate the same. Challenging the said notices, the present writ petition came to be filed. This Court had granted an interim order of stay. To vacate the same, WMP(MD)No.84 of 2024 has also been filed.

3.The learned Additional Advocate General appearing for the second respondent submitted that the building is quite old and that the municipality proposed to demolish the same and construct a new shopping complex. It will not only enhance the amenities but also revenue to the local body. The petitioners do not have any legal right to continue to be in occupation of the existing shops. Rule 316(11) of the Tamil Nadu Urban Local Bodies confers preferential treatment on the existing occupants.

4.Considering the special facts and circumstances of the case, the petitioners are granted time to vacate till 01.05.2024. On the said date, without issuing any further notice, the local body can straightaway take



possession of the shops in question. It is also undertaken by the local body that the new complex is likely to be constructed within a period of twelve months thereafter and that once the shopping complex is constructed, it shall be brought to public auction. The petitioners as existing licensees are entitled to preferential treatment as set out in Rule 316(11). The said Rule reads as under :

"316.Licensing or leasing of immovable properties :

.....

(11) (a) In case of auction for licence of rental shops belonging to the municipality, the Council may, on application by the concerned person, give preference to,—

(i) In case of demolition and reconstruction, existing licensees of the demolished shopping complex;

(ii) Licensees of another shopping complex belonging to the municipality which was demolished or diverted to some other use by the municipality;

(iii) Commercial shop owners in lands acquired by the municipality;

(b) (i) Any person claiming such preference shall be required to match the highest bid price and submit necessary documents proving eligibility for preference;

(ii) The order of preference shall be in the same order as in clause (a) and within each category, the preference shall be in order of seniority within that category with respect to the month and year of demolition or acquisition;



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(iii) Preference in allotment shall not be applicable to legal heirs of such persons if the said person is deceased;

(c) Five per cent of the shops may be allotted to persons with disability, willing to match the highest bid."

5.The petitioners have to take part in the public auction or tender. If they match highest offer/bid, licenses will have to be issued in favour of the petitioners. With this declaration in favour of the petitioners in terms of the aforesaid rule and granting time till 30.04.2024, this writ petition stands disposed of. No costs. Connected miscellaneous petitions are closed.

12.03.2024

Internet : Yes/No
Index : Yes/No
skm

To

- 1.The District Collector,
Theni District, Theni.
- 2.The Commissioner,
Chinnamanur Municipality,
Theni District.



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G.R.SWAMINATHAN, J.

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