



W.P.No.8504 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.8504 of 2025
and W.M.P.No.9526 of 2025

S.Suresh

...Petitioner

-Vs-

The Executive Officer,
Mohanur Town Panchayat,
Namakkal District.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Mandamus, forbearing the respondent herein from in any way taking forcible possession of Shop No.5, at Mohanur Bus Stand, from the petitioner without affording sufficient opportunity to him to exhaust appropriate remedy as against the judgment and decree passed in S.A.No.1081 of 2007 on the basis of the petitioners representation dated on 04.03.2025.



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For Petitioner : Mr.V.Balaji

For Respondent : Mr.M.Rajendran,
Additional Government Pleader

ORDER

This writ petition has been filed forbearing the respondent herein from in any way taking forcible possession of Shop No.5, at Mohanur Bus Stand, from the petitioner without affording sufficient opportunity to him to exhaust appropriate remedy as against the judgment and decree passed in S.A.No.1081 of 2007 dated 04.12.2024 on the basis of the petitioners representation dated on 04.03.2025.

The brief facts are as follows:

2.The petitioner was allotted a Shop at Mohanur Bus Stand by an auction and after an increase in rent the petitioner has filed a suit for declaration against the lease fixed by the respondent which was partially decreed granting declaratory relief. Petitioner along with other shop owners



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WEB COPY filed an O.S.No.229 of 2003 before the Principal District Munsif Court, Namakkal, for an injunction to protect their possession. The suit was partly decreed granting an injunction and rejecting the claim for damages. Against the same, the respondent filed an appeal in A.S.No.85 of 2005 before the Subordinate Court, Namakkal. The appellate Court along with the appeal and dismissed a cross objection filed by the respondents of the present writ petition. Thereafter, the respondents filed a second appeal in S.A.No.1081 of 2007 which was also dismissed. The petitioner preferred an S.L.P where he has also applied for a certified copy of the judgment and decree passed in the second appeal. The respondent herein has issued a notice dated 17.12.2024 calling upon petitioner to vacate and hand over possession and pay arrears of rent. The Respondent as per his interpretation of the judgment and decree passed in the Second Appeal, has sought Police Protection for taking over possession of the shop. Aggrieved against the action of the Respondent, The petitioner prefers this present writ petition.

3.Learned counsel for the petitioner submitted that this Court in the



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second appeal judgment and decree dated 04.12.2024 as directed as follows:

"Accordingly, this Second Appeal is dismissed as no merit and the findings rendered in A.S.No.86 of 2005 on the file of Subordinate Judge, Namakkal is confirmed and the Suit is dismissed. Time is granted for the period of twelve weeks to vacate the premises from the date of receipt of copy of this judgment. Liberty is granted to the respondent to recover the arrears of rent as per manner known to law. Furthermore, if the rent is not paid by them, the respondent has to work out their remedy under the Revenue Recovery Act.

4.The following order was passed by this Court on 10.03.2025 as under:

"3. Learned counsel would submit that copy of the judgment was received by the petitioners/appellants on 5/3/2025. If twelve weeks time is calculated from 5/3/2025, it concludes on 5/6/2025. Thus, the petitioners are having time to challenge the decision dated 4/12/2024 passed in S.A.No. 1081 of 2007 by way of SLP till 5/6/2025.

4. The learned Additional Government Pleader



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WEB COPY *appearing for the respondent/Mohanur Town Panchayat would submit that the petitioners may file an affidavit that they will vacate the respective shops on or before 05.06.2025*

5. At the request of the learned counsel for the petitioners, for filing the affidavit of undertaking that the petitioners will vacate the respective shops on or before 5/6/2025, as per the judgment of this Court, dated 4/12/2024, post on 12/3/2025, under the caption 'for orders'. In the meanwhile, learned Additional Government Pleader appearing for the respondent is directed to instruct the Officers not to take any coercive action till 12/3/2025"

5.Pursuant to the order passed by this Court on 10.03.2025 petitioner has filed an individual affidavit stating that as per the judgment and decree in Second Appeal No.1081 of 2007 dated 04.12.2024, the petitioner will vacate the subject matter premises on or before 03.06.2025.

6.Learned counsel appearing for the petitioner further submitted that additional affidavit filed by the petitioner dated 10.03.2025 where in stated



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WEB C as follows:

" 3. I submit that the orders in aforesaid Second Appeal was passed on 04.12.2024 and through my counsel I applied for certified copy on 05.12.2024. The certified copy was furnished only on 05.03.2025. Immediately on 09.03.2025, I preferred SLP before the Hon'ble Apex Court in SLP. (D)Nos. 13163, 13168 and 13171 of 2025. As per para 6 of the orders passed in second appeal, I have 12 weeks' time from the date of receipt of copy of the order to comply with the direction which expires only on 03.06.2025. I hereby undertake to comply wit the direction in Para 6 of the Second Appeal Judgement on or before 03.06.2025 subject to the outcome in the SLP."

7.The above affidavit has filed by the petitioner is taken on record, this writ petition stands disposed of with the above directions and observations.



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WEB COPY No costs. Consequently, connected miscellaneous petition is closed.

8.Post this case on 05.06.2025 under the caption 'for reporting compliance'.

12.03.2025

[1/11]

vsn

Index : Yes / No

Speaking / Non-Speaking Order

To

The Executive Officer,
Mohanur Town Panchayat,
Namakkal District.



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