

W.P.(MD)No.4938 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.4938 of 2025

and

W.M.P.(MD)No.3584 of 2025

Venkatesan

... Petitioner

-VS-

- 1.The District Collector,
Office of the District Collector,
Dindigul District.
- 2.The Block Development Officer,
Vedasandur, Dindigul District.
- 3.The Executive Officer,
Vadamadurai Town Panchayat,
Vadamadurai.
- 4.The President,
Vadamadurai Town Panchayat,
Vadamadurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents from disturbing the business of the petitioner in respect of Shop No.7 near Gandhi Statue, Vadamadurai, Vadamadurai Town, Dindigul District, based on the auction



W.P.(MD)No.4938 of 2025

proceedings in Na.Ka.No.5 of 2024, dated 01.10.2024, by the third respondent by allowing the above Writ Petition, within a time frame as may be fixed by this Court.

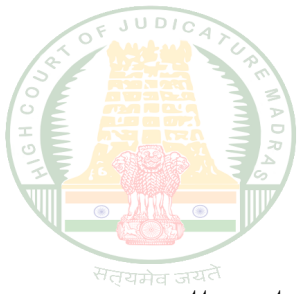
For Petitioner : Mr.S.Balasubramanian
For R1 and R2 : Mr.C.Venkateshkumar
Special Government Pleader
For R3 and R4 : Mr.M.Senthil Ayyanar
Government Advocate

ORDER

This Writ Petition has been filed to forbear the respondents from disturbing the business of the petitioner in respect of Shop No.7 near Gandhi Statue, Vadamadurai, Vadamadurai Town, Dindigul District, based on the auction proceedings in Na.Ka.No.5 of 2024, dated 01.10.2024, by the third respondent.

2. With the consent of both sides, the Writ Petition itself is taken up for final disposal at the admission stage itself.

3. The learned counsel for the petitioner submits that the Additional Collector allotted shops on ground rent to 10 individuals near the Gandhi Statue at Vadamadurai Town, Dindigul District. When the executive authorities



W.P.(MD)No.4938 of 2025

attempted to evict the petitioner, he instituted a suit, which was dismissed. The dismissal was upheld in both the Appeal Suit and the Second Appeal. Now, the third respondent has called for an auction of the ground rent shops, one of which the petitioner is operating for his livelihood. However, all the shops were subsequently taken by the friends and the relatives of the fourth respondent. Hence, the petitioner has filed the present Writ Petition.

4. The learned Special Government Pleader appearing for the respondents 1 and 2 submits that the Writ Petition is not maintainable. The petitioner is an encroacher and was temporarily allowed to occupy a portion based on an order passed in 1977. Subsequently, he filed a suit, which was dismissed by the trial Court. Thereafter, he preferred first appeal and the same was also dismissed. Aggrieved over the same, he filed S.A.(MD)No.1068 of 2011, which was also dismissed by this Court, vide judgment dated, 27.08.2021. The relevant portion of the said judgment reads as under:-

"4. The Courts below have concurrently found that the plaintiff was paying ground rent to the local body and had put up a superstructure and running a petty business which is adjacent to road. It has been established beyond doubt. Even according to the plaintiff, the suit

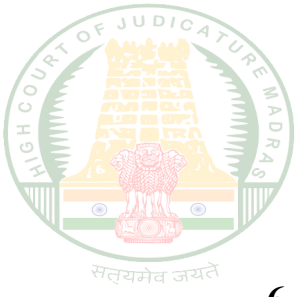


W.P.(MD)No.4938 of 2025

property belonged to the local body and it was let out on payment of ground rent. Merely because, the plaintiff was allowed to be a licensee for a long number of years, that will not confer any right to continue in possession. This is a well settled proposition. That is why, the trial Court declined to grant the relief of declaration and permanent possession against the defendants. No substantial questions of law arises for consideration. At the same time, I must also hold that when the appellant is in possession of the suit site, the respondents will have to follow due process of law before evicting the appellant. Merely because this appeal has been dismissed, that does not necessarily mean that the appellant should be evicted. I have only sustained the judgment of the Courts below that the plaintiff cannot be granted the relief of declaration, nor the defendants can be restrained by a decree of permanent injunction. That does not mean that the appellant should be thrown out. It is a policy decision that has to be taken by the defendants. If the defendants take a policy decision to evict the plaintiff, then they have to necessarily follow the procedure set out in the relevant statute.

5. With this observation and clarification, this second appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed."

5. The learned Special Government Pleader further submitted that subsequent to the said judgment, a fresh auction notice has also been issued.



W.P.(MD)No.4938 of 2025

WEB COPY

6. Considering the submissions made by the learned Special Government Pleader, this Court finds that the Writ Petition lacks merit and therefore, the same is liable to be dismissed. Accordingly, it is dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes / No

Index : Yes / No

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24.02.2025

To:-

- 1.The District Collector,
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W.P.(MD)No.4938 of 2025

VIVEK KUMAR SINGH, J.

smn2

W.P.(MD)No.4938 of 2025

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