

W.A(MD) No.1413 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 19.03.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

W.A(MD) No.1413 of 2022

M.Wahitha Banu

... Appellant / Writ Petitioner

Vs

**1.The Managng Director,
Tamil Nadu Tea Plantation Corporation Ltd.,
Registered Office,
TANTEA,
Coonor,
Nilgiris District.**

**2.The Commissioner,
Kovilpatti Municipality,
Kovilpatti,
Tuticorin District.**

... Respondents / Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to allow the writ appeal by setting aside the order in W.P. (MD)No.4117 of 2022, dated 13.10.2022 on the file of this Court.

For Appellant : Mr.S.M.A.Jinnah



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For Respondents : Mr.K.Balasubramani
Special Government Pleader
for R1

: Mr.J.Parekhkumar
for Mr.P.Srinivas
for R2

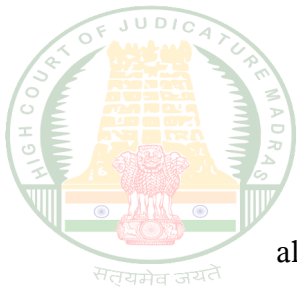
ORDER

(Order of the Court was made by **G.R.SWAMINATHAN, J.**)

Heard both sides.

2. The appellant herein filed W.P.(MD)No.4117 of 2022 for directing the Commissioner, Kovilpatti Municipality to allot a particular place so as to enable her to run tea shop. The learned single Judge vide order dated 13.10.2022 dismissed the writ petition in the following terms:-

“7. It is seen from the affidavit that the petitioner did not come forward to comply with the conditions prescribed in the allotment agreement and on the other hand, the vacant site allotted by the second respondent for the first respondent came to be cancelled by the Kovilpatti Municipality vide their letter No.389/2021/A3, dated 11.01.2022 on account of hindrance cause to the public. As on date, there is no vacant place allotted to this respondent for the purpose of Establishment of TANTEA shop within the limits of Kovilpatti Municipality. It is further stated that if at all any vacant portion is



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allotted to this respondent by the Kovilpatti Municipality in future then this respondent would allot the said shops by the following due procedures. At the relevant point of time, it is open for the petitioner to participate in the said process along with others.

8. The learned counsel appearing for the first respondent would submit that the petitioner has got another TANTEA outlet in Dindigul bus stand also.

9. The learned counsel appearing for the second respondent would submit that the Kovilpatti Municipality is ready and willing to allot the space at new bus stand or new road near Government Hospital.

10. The petitioner's husband appeared before this Court in person and submitted that those two places are not suitable for running her business and there is no takers for tea and there is no frequent public access in that area. All these facts are not accepted by this Court as the petitioner has no fundamental right for seeking particular place for keeping his outlet and it is the discretion of the Kovilpatti Municipality to allot the place and he can go and approach the second respondent in person. If the other conditions are complied with, the second respondent can allot the space to the petitioner.”

3. A writ of mandamus will lie only if there is an enforceable legal right. The petitioner cannot insist that she must be allotted a particular site to run a tea shop. The learned single Judge had approached the issue correctly. Interference with the said order is not warranted.



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4. The writ appeal is dismissed. No costs.

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(G.R.S., J.) (M.J.R., J.)
19.03.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
rmi

To

The Managing Director,
Tamil Nadu Tea Plantation Corporation Ltd.,
Registered Office,
TANTEA,
Coonor,
Nilgiris District.



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