



W.P.(MD)No.30528 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 31.01.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.30528 of 2024
and
W.M.P.(MD)No.25650 of 2024

N.Jayalakshmi

... Petitioner

Vs.

1.The Regional Director of Municipal Administration,
Melakkal Main Road, Kochadai,
Madurai 625 016.

2.The Commissioner,
Thirumangalam Municipality,
Thirumangalam,
Madurai District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to de-seal Shop No.7, located at Thirumangalam Bus Stand, Thirumangalam and permit the petitioner to continue her business in the name and style of "Andal Fruits" at the said shop without any interruption.

For Petitioner	: Mr.N.Sathish Babu
For 1 st Respondent	: Mr.T.Amjad Khan Government Advocate
For 2 nd Respondent	: Mr.K.Kannan Standing Counsel



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ORDER

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This writ petition is filed, seeking to direct the respondents to de-seal Shop No.7 located at Thirumangalam bus stand, Thirumangalam and permit the petitioner to continue her business in the name and style of Andal fruits at the said shop without any interruption.

2.Heard the learned counsel on either side and carefully perused the entire materials available on record.

3.When the matter came up for admission, the learned counsel appearing for the petitioner submitted that the petitioner's shop was locked and sealed without putting her on notice and without allowing her to even remove the perishable things, which were in her shop. In view of the said submission, this Court passed an interim direction on 18.12.2024, directing the second respondent to permit the petitioner to remove the perishable things from the subject shop and further seal the shop thereafter.

4.The factual matrix of the case is that the petitioner's husband and the petitioner were running a business under the name and style of 'Andal Fruits' in Shop No.7, located at Thirumangalam Bus Stand, for the past 30 years and the shop belonged to the second respondent



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municipality. Originally the shop was allotted to one Radhakrishnan through tender cum auction proceedings and subsequently, the petitioner and her husband were inducted as tenants and were paying a monthly rent of Rs.2,965/- directly to the second respondent. The original allottee Radhakrishnan passed away during the currency of allotment and however, considering the petitioner's genuine efforts in paying monthly rent, she was permitted to continue running the business at Shop No.7. During November 2024, when she attempted to remit the monthly rent to the second respondent, the concerned official refused to accept the same. On 11.12.2024 at about 05.00 p.m., four officials attached to the second respondent municipality visited the petitioner's shop and without putting her on prior notice sealed the same without giving her an opportunity of hearing. Hence, the petitioner visited the second respondent's office on 12.12.2024, to meet the Commissioner. However, she was not able to meet the Commissioner and ventilate her grievances and hence this Writ Petition came to be filed.

5.The learned counsel appearing for the petitioner submitted that the petitioner had never ever committed any default in payment of rents and there are no arrears of rents as well and on that basis, he submitted that subjecting the petitioner's shop to lock and seal without putting her on notice would amount to abuse of process of law and violation of principles of natural justice and on that basis, pressed for allowing the



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Writ Petition.

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6.Per contra, the learned Standing Counsel appearing for the second respondent municipality on the basis of the counter affidavit filed by the municipality submitted that in compliance with the interim order passed by this Court on 18.12.2024, the Revenue Inspector of the second respondent personally made a phone call to the petitioner and her counsel to remove the perishable things as directed by this Court and voluntarily expressed their willingness to de-seal for the said purpose of removing the things inside the shop. However, there was no response from the petitioner. Hence, in the interest of justice, a written letter in writing dated 23.12.2024, was also served in person to her expressing the willingness of the second respondent to comply with the interim direction of this Court. Even thereafter, the petitioner failed to come forward to take the things as alleged by them and hence, so far, the second respondent is not able to comply the interim direction passed by this Court. However, as far as the facts propagated by the learned counsel for the petitioner, the learned counsel for the respondents submitted that the same are incorrect. Admitting that Shop No.7 located at Thirumangalam bus stand belong to the second respondent municipality, the learned counsel submitted that the petitioner is unauthorizedly and illegally occupying the said shop. Originally, the said shop was allotted to one Radhakrishnan by a tender cum auction lease



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and the petitioner was never ever inducted as a tenant. There is no landlord and tenant relationship and no agreement of lease was entered with her by the second respondent municipality at any point of time. The original allottee Radhakrishnan passed away during the currency of allotment and hence, it would become clear that petitioner is an illegal occupant though with her knowledge and enjoying the municipal shop in the name of the dead person without any intimation to the municipality and the same is *per se* illegal. The petitioner is neither the legal heir or any rightful person to take possession of the shop claiming under the lease of the original tenant, namely, Radhakrishnan. Hence, the petitioner challenging the eviction and lock and seal initiated by the municipality with respect to shop No.7 is legally not sustainable.

7.New Municipal Council has taken charge to the second respondent municipality after the corona period and on the basis of the decision made by the New Municipal Council to cancel the existing licenses after expiry and issue fresh tender notification thereby increasing the rental income and revenue, which could be augmented from the said premises came to be taken. Accordingly, due notices were issued to all the municipal shop lease holders including shop No.7, Radhakrishnan to vacate and surrender the shop for renovation/demolition of damaged structure on 29.08.2022 itself. As far as shop No.7 is concerned, since the petitioner is not the tenant, she was



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not issued with any notice. Accordingly she has no right to claim any right over the said shop and pressed for dismissal of the Writ Petition.

8.I do not find any infirmity in the respondent municipality's action, recording the fact that the petitioner is neither a legal heir nor any person who could claim under the original lessee who passed away during the currency of allotment, that is, Thiru.Radhakrishnan. In view of the same, there is no local *standi* for the petitioner to question the respondent municipality's action.

9.Accordingly, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

31.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn



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To

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L.VICTORIA GOWRI, J.

Mrn

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