



**W.P.No.30289 of 2024**

**N. SENTHILKUMAR, J.**

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The writ petitioners moved this petition as lunch motion even during the vacation period. Considering the urgency, the writ petition was taken up at 4.30 p.m.

2.Mr.Om Prakash, learned Senior Counsel appearing for the petitioners has drawn the attention of this Court to the impugned order passed on 04.10.2024, which is extracted hereunder:

“தங்களின் குத்தகை காலம் 30.09.2024 உடன் முடிவடைந்த நிலையில், பார்வை 6ல் காணும் இந்நகர் மன்ற தீர்மானம் எண்.88 நாள் 27.09.2024ன் அடிப்படையில் பார்வை 7ல் காணும் செயல்முறை ஆணையில், திரு.ஏ.டி.கண்ணன், ஆர்.ஸ்ரீ குமுதம் ஆகிய தங்களது குத்தகை உரிமம் ரத்து செய்து உத்தரவிடப்பட்டுள்ளது. எனவே, தங்களால் மேற்படி வணிக வளாகத்தினை தொடர்ந்து நடத்துவதற்கு குத்தகை உரிமை கோர இயலாது. மேற்படி சட்ட விதிமுறைகளுக்கு முரணான தங்களது செயலால், தங்களுக்கு நகராட்சியால் வழங்கப்பட்டிருந்த குத்தகை உரிமம் முழுமையாக ரத்து செய்து இதன் மூலம் உத்தரவிடப்படுகிறது.

மேலும், பார்வை 8இல் காணும் மாண்புமிகு மெட்ராஸ் உயர் நீதி மன்ற உத்தரவின்படி, புதிய பேருந்து நிலையம் அருகில் உள்ள நகராட்சிக்கு சொந்தமான மெட்ரோ பஜார் என்ற வணிக வளாகத்திற்குள் வைக்கப்பட்டுள்ள பொருட்களை இவ்வத்திரவு கிடைக்கப்பெற்ற 24 மணி நேரத்திற்குள் அப்புறப்படுத்தி காலி செய்து தறுமாறும், நகராட்சியால் ஒப்படைத்த நிலையிலேயே மீள நகராட்சிக்கு ஒப்படைக்குமாறும் தெரிவிக்கப்படுகிறது. தவறும்பட்சத்தில், நகராட்சியால் உரிய மேல் நடவடிக்கை எடுக்கப்படும் என இதன் மூலம் தெரிவிக்கப்படுகிறது. ”



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3.The petitioners already filed a Writ Petition in W.P.No.29463 of 2024 making the Secretary to Government, Municipal Administration and Water Supply Department as first respondent and the Commissioner, Corporation of Krishnagiri as second respondent. This Court after hearing Dr.T.Seenivasan, learned Special Government Pleader representing for the first respondent and Mrs.S.Anitha, learned Standing Counsel representing for the second respondent, has passed a detailed order on 30.09.2024. The facts which arises for consideration by this Court are that, the petitioner Nos.1 and 2, who are husband and wife, running a business in the name and style of "Metro Bazaar" at Municipal Shopping Complex, New Bus Stand, Krishnagiri. The shopping complex was leased out to the petitioners by the second respondent. The lease was fixed from 01.10.2009 to 30.09.2012 and the rent was fixed as Rs.61,000/-. Then, the second respondent has extended the lease from time to time by enhancing the rent. That being the situation, the second respondent had passed an order on 27.09.2024 with a direction to the petitioners to vacate the premises within 24 hours. The said order was impugned in the earlier Writ Petition. Therefore, the petitioners moved this Court by way of lunch motion in an earlier occasion.



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4. In the above writ petition, the objection of the first and second respondents was that the order passed by the second respondent is an appealable order and therefore, the writ petition shall not be entertained. This Court after hearing the learned Special Government Pleader and the learned Standing Counsel for the first and second respondents, had come to a conclusion that the respondents had passed the order without giving an opportunity to the petitioners. This Court while quashing the impugned order dated 27.09.2024 and the notices dated 21.06.2024, 06.08.2024 and 16.09.2024 in W.P.No.29463 of 2024, a direction was given to the second respondent to give an opportunity to the petitioners under Rule 302 (2) of the Tamil Nadu Urban Local Bodies Rules and pass orders within a period of two weeks. The said provision is extracted hereunder:

**“ 302. Revocation or suspension of licence.— (1)**

*Where the Commissioner either suo-motu or on a representation from general public has reason to believe that,—*

*(a) the licence has been fraudulently obtained; (b) the licence has been used for the purpose other than the purpose for which the licence has been granted;*

*(c) any condition of the licence has been contravened, he shall call upon the Licensee by notice in*



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*writing, stating grounds, to show cause within seven days as to why the licence should not be revoked or suspended.*

*(2) On examining the reply received from the licensee and giving the person an opportunity of being heard, the Commissioner may either,—*

*(i) revoke the licence; or*

*(ii) suspend the licence with such directions as he may deem necessary; or*

*(iii) drop further action, if he is satisfied that no further action is needed.*

*(3) A suspended licence may be revived on application to the Commissioner, if he is satisfied that the directions have been duly complied with:*

*Provided that a suspended licence shall be deemed to have been revoked if it is not revived within one year.”*

5.The aforesaid order passed by this Court was received by the second respondent on 03.10.2024. In the present impugned order dated 04.10.2024, the second respondent while referring to the order passed in W.P.No.29463 of 2024 dated 30.09.2024, directed the petitioners to appear before the second respondent on 04.10.2024 at about 05.00 p.m. The impugned order categorically stated that if the petitioners fail to appear at 05.00 p.m. on the said date, orders will be passed. It is seen from the records



that the second respondent had received order copy on 03.10.2024 and has passed the impugned order on 04.10.2024.

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6.It is not in dispute that, under the Tamil Nadu Urban Local Bodies Rules, the second respondent has the power to extend the lease or to cancel the lease. But the exercise has to be done only after giving sufficient opportunity. While this Court has highlighted that the petitioners were not given an opportunity before passing the impugned order dated 27.09.2024 in the earlier Writ Petition, the present impugned order is nothing but a verbatim of the order dated 27.09.2024.

7.The action taken by the second respondent by giving 24 hours time to the petitioners creates a doubt in the mind of the Court that the second respondent is acting for the reason best known to him. The second respondent has now become a Corporation and it is duty bound to give sufficient opportunity to every single individual who fall under the vicinity against whom any order is passed. When the impugned orders are passed, it should reflect the application of mind. The second respondent has not given any reason for giving 24 hours time for the petitioners to vacate the



premises. It is not only reflecting the attitude of the second respondent but also expressing the highhandedness of the second respondent.

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8.The second respondent shall file a report on 09.10.2024 explaining why 24 hours time was given to vacate the premises when this Court has indicated that the exercise shall be carried out within a period of two weeks.

9.The second respondent is expected to strictly adhere to the directions of this Court in the earlier W.P.No.29463 of 2024. Any gross violation in compliance of order passed in W.P.No.29463 of 2024 will have to be construed as contempt of Court.

10.Mr.Om Prakash, learned Senior Counsel appearing for the petitioners submitted that the petitioners were directed to appear before the the second respondent on the very next day of receipt of the order copy i.e. 04.10.2024 and an enquiry was conducted. The entire enquiry was videographed and the impugned order was passed on 04.10.2024 itself.



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11.It is submitted by the learned Senior Counsel that contrary to the order passed in the earlier W.P.No.29463 of 2024, the second respondent conducted an enquiry without de-sealing the premises and passed final orders. The learned Government Advocate on oral instructions submitted that the premises was de-sealed after passing the final order. At this juncture, it is submitted by the learned Senior Counsel for the petitioners that the premises is being now kept under lock and seal from 07.10.2024.

12.The highhanded attitude of the second respondent cannot be taken lightly as the second respondent is willfully repeating verbatim order passed on 27.09.2024 and 04.10.2024.

13.The learned Government Advocate appearing for the respondents had made an earnest request that the appearance of the second respondent may be dispensed with, as the impugned order was passed without any malicious intention and only in compliance with the Local Body Acts and Rules. The above submission is rejected. The highhandedness of the second respondent cannot be condoned when this Court had already quashed the impugned order dated 27.09.2024.



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14. The second respondent is directed to de-seal the premises forthwith and appear before this Court on 09.10.2024 through video conferencing at 02:15 p.m., apart from filing a report before this Court explaining the reasons for giving only 24 hours time to vacate the premises. The second respondent shall quote under what provision of law, this decision was taken.

15. Post the matter on 09.10.2024 at 2.15 p.m.

07.10.2024

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***Note: Issue Order Copy on 08.10.2024***





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**N. SENTHILKUMAR.J.,**

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07.10.2024