

(2010) 09 MAD CK 0375

In the Madras High Court

Case No : Writ Petition (MD) . No. 11853 of 2010 and M.P. (MD) . No. 1 of 2010

M. Ramadoss

APPELLANT

Vs

The Commissioner, Madurai Municipal Corporation, Madurai
District

RESPONDENT

Date of Decision : 27-09-2010

Acts Referred:

Constitution of India, 1950 — Article 14, 21

Citation : (2010) 09 MAD CK 0375

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : G. Prabhu Rajadurai, for the Appellant; Ravishankar, for the Respondent

Final Decision : Dismissed

Judgement

M. Jaichandren

1. Heard Mr. G. Prabhu Rajadurai, the learned counsel appearing for the petitioner and Mr. Ravishankar, the learned Standing Counsel appearing for the respondent. By consent of both the parties, the writ petition is taken up for hearing and disposal.

2. The petitioner has stated that he is the brother of the original allottee of Shop No.90, in Central Market, Madurai. The petitioner has been carrying on vegetable business, along with his family members, for many years. In such circumstances, the petitioner had requested the respondent to allot a shop in the New Central Market, at Mattuthavani, Madurai, in lieu of Shop No.90, in Central Market, Madurai. It has also been stated that the petitioner's brother, M. Radha Krishnan @ Krishnan, had submitted a document stating that he has no objection for transferring the licence of the shop in the name of the petitioner.

3. It has also been stated that nearly 524 persons, who were having their shops in the Central Market, Madurai, either as allottees or as tenants, had been

reallotted the shops in the New Central Market, Mattuthavani, Madurai. Therefore, the petitioner has made a claim to the respondent Corporation for allotment of a shop in the New Central Market, at Mattuthavani, Madurai, in lieu of Shop No.90, in the Central Market, Madurai. It had been submitted that, when other persons, who were carrying on vegetable business in the Central Market, Madurai, had been reallocated shops in the New Central Market, Mattuthavani, Madurai, the respondents ought to have allotted a shop to the petitioner, in the New Central Market, at Mattuthavani, Madurai, like in the case of the other persons.

4. The main contention of the learned counsel for the petitioner is that the respondent ought to have exercised his powers of allotment of shops, in the New Central Market, at Mattuthavani, Madurai, only in accordance with Article 14 of the Constitution of India, as it involves the right of livelihood of the petitioner, under Article 21 of the Constitution of India. It has also been stated that the respondent is prejudiced against the petitioner, since, he had made a number of demands against the respondents, on behalf of the members of the Central Market Maatha Vadakai Kadai Viyabarigal Nala Urimai Sangam, as its Secretary.

5. The learned counsel for the respondent had submitted that the petitioner was not an allottee of Shop.No.90, in the Central Market, Madurai. He has no right to demand that he should be allotted a shop in the New Central Market, at Mattuthavani, Madurai, like in the case of the others. He had also submitted that the petitioner had filed two Civil Suits, in O.S.Nos.272 of 1992 and 624 of 2007, on the file of the District Munsif Court, Madurai, in respect of the lease of the shops. Under such circumstances, the petitioner is not entitled to claim that he should be allotted a shop in the New Central Market, at Mattuthavani, Madurai, in lieu of Shop.No.90.

6. In view of the averments made by the petitioner, in his affidavit filed in support of the Writ Petition and in view of the submissions made on behalf of the petitioner, as well as the respondent, this Court does not find sufficient cause or reason to grant the relief, as prayed for, by the petitioner, in the present Writ Petition. It is not in dispute that the petitioner was not the allottee of Shop No.90, in the Central Market, Madurai. Even if it true that his brother, namely, M. Radha Krishnan @ Krishnan, who is said to be the allottee of Shop No.90, at the Central Market, Madurai, had given his no objection to transfer the shop in the name of the petitioner, the respondent had not transferred the shop in the name of the petitioner, till date.

7. Further, nothing has been shown on behalf of the petitioner that the respondent Corporation had been acting in a malafide manner, based on the fact that the petitioner was the Secretary of the Central Market Maatha Vadakai Kadai Viyabarigal Nala Urimai Sangam. It is also found that the petitioner had filed two Civil Suits, in O.S.Nos.272 of 1992 and 624 of 2007, which are still pending on the file of the District Munsif Court, Madurai. As such, the Writ Petition is devoid of merits and therefore, it is liable to be dismissed. Accordingly, this Writ Petition

stands dismissed. Consequently, connected M.P. is closed. No costs. However, it is made clear that it would be open to the petitioner to seek appropriate reliefs, before the concerned Civil Court, in the suits, in O.S. Nos. 272 of 1992 and 624 of 2007, in the manner known to law.