

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.06.2015

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P. No. 13942 of 2015

&

M.P. Nos. 1 & 2 of 2015

K.Poorna Chandran

...Petitioner

Vs.

The Commissioner,
Mettupalayam Municipality,
Mettupalayam,
Coimbatore District.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the respondent in Na. Ka. No. 4557/2014/A1 dated 18.03.2015 and the subsequent proceedings in Na.Ka.No. 4557/2014/A1 dated 09.04.2015 and to quash the same and consequently directing the respondent Municipality to extend the lease of shop No.6 in Mettupalayam Bus stand allotted to the petitioner for further period or to provide any alternative site/shop in favour of the petitioner.

For Petitioner : Mr.M.N.Balakrishnan

For Respondent : Mr.P.H.Arvind Pandian
Additional Advocate General
assisted by
Mr.B.Anand
and
Mr.Rm.Muthukumar

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O R D E R

By consent of both parties, the main writ petition itself is taken up for final disposal.

2. It is the case of the petitioner that he was granted lease of shop No.6 at Ooty Main Road, Mettupalayam nearer to the bus stand, by the respondent Municipality and it was periodically renewed and it was extended for a period of 3 years on 09.04.2012 at the revised rent of Rs.3,585/- and he was making regular payment of rent. The petitioner would further state that there are about 200 shops in and around the Municipality Bus Stand leased out to private individuals and he is in possession of the above said shop No.6 for more than 23 years and he is running a Sweet Stall in the said premises and his entire family livelihood is depending on the income being derived out of the said business. The petitioner has also stated that the period of lease/licence came to an end by 31.03.2015 and he approached the respondent Municipality in person seeking renewal of lease/licence of Shop No.6. However, he was orally informed that 13 shops in Ooty Main Road would be removed as they are located on the northern side of the bus stand entrance causing hindrance to the traffic. The petitioner was served with a notice dated 18.03.2015, which was received by him belatedly, stating that as per the resolution passed by the Local Body, a decision has been taken to demolish the shops on the northern side of the bus stand entrance.

3. The claim of the petitioner is that in terms of G.O.Ms.No.92, Municipal Administration and Water Supply (Finance IV) Department, dated 03.07.2007 he is entitled to further renewal of three years at the revised rent and therefore, the respondent is duty bound to renew the lease/licence and challenging the vires of the impugned proceedings calling upon him to vacate and deliver vacant possession, the present Writ Petition is filed.

4. Mr.M.N.Balakrishnan, learned counsel appearing for the petitioner, would vehemently contend that in the light of the above said G.O.Ms.No.92, Municipal Administration and Water Supply (Finance IV) Department, dated 03.07.2007, it is clarified on the part of the respondent Municipality that it is to extend lease/licence for further period of three years and prays for appropriate orders.

5. Per contra, Mr.P.H.Arvind Pandian, learned Additional Advocate General assisted by Mr.B.Anand and Mr.Rm.Muthukumar,

learned counsel, would submit that in the light of the judgment reported in (2014 (5) MLJ 129 DB) (P.Muthusamy .vs. State of Tamil Nadu represented by its Secretary to Government, Municipal Administration and Water Supply Department, Chennai and others), it is open to the concerned local body to go for the auction or for betterment of utilisation and the respondent having found location of the shops on the northern side of the bus stand entrance, causing hindrance to the public and traffic, decided to demolish the same in public interest and hence, prayed for dismissal of the Writ Petition.

6. In response to the said submission, learned counsel appearing for the petitioner alternatively pleaded that this Court in similar facts and circumstances passed an order on 15.04.2015 made in W.P.Nos. 10861 to 10864 of 2015 and W.P. No. 10794 of 2015 and also an order dated 17.04.2015 made in W.P.No.11209 of 2015 and granted time to vacate and deliver vacant possession and similar orders can also be passed in this Writ Petition.

7. This Court heard the submission of Mr.P.H.Arvind Pandian, learned Additional Advocate General.

8. This Court in the above stated Writ Petition has granted time to the Writ Petitioner therein till 30.06.2015 to vacate and deliver vacant possession of the shop in occupation to the respondent Municipality and also to file an Affidavit of Undertaking.

9. In the result, the Writ Petition is disposed of and the petitioner is granted time till 08.07.2015 to vacate and deliver vacant possession of shop No.6 to the respondent Municipality and he shall also file an affidavit of undertaking to that effect within one week from today undertaking that in the interregnum he shall pay lease/rent amount without fail and shall not create any third party right. No costs.

10. Call on 09.06.2015 for filing an affidavit of undertaking by the petitioner.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

mra

To

The Commissioner,
Mettupalayam Municipality,
Mettupalayam,
Coimbatore District.

Copy to

The Section officer,
Writ Section, High Court,
Madras.

(with a direction to post the matter on 09.06.2015)

W.P. No. 13942 of 2015

KSJ (CO)
PSI (08.06.2015)



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