

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. Nos. 3646 to 3651 of 2014

&

M.P. Nos. 1 & 2 of 2014

Subadhra Devi	...Petitioner in W.P. No. 3646 of 2014
C. Thangavel	...Petitioner in W.P. No. 3647 of 2014
S. Murthy	...Petitioner in W.P. No. 3648 of 2014
A. Palanisamy	...Petitioner in W.P. No. 3649 of 2014
S. Sampathkumar	...Petitioner in W.P. No. 3650 of 2014
P. Gowrishankar	...Petitioner in W.P. No. 3651 of 2014

Vs.

The Commissioner,
Chennimalai Panchayat Union,
Chennimalai,
Erode District.

...Respondent in all the writ petitions

Prayer: Petitions under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records relating to the order made in Na.Ka. No. 116/2014/A4 dated 29.01.2014 issued by the respondent and quash the same and consequently direct the respondent to renew the licence in respect of shop Nos.6,1,3,5,4 & 2 respectively situated at Vellodu Commercial Complex, Chennimalai, Erode District for the years 2014-2017.

For Petitioners : Mr.G. Ethirajulu for
Mr.Pitty Parthasarathy

For Respondent : Mr.V. Jayaprakash Narayanan
Special Govt. Pleader

O R D E R

The petitioners are lessees under the respondent Panchayat Union running shops in Vellodu Commercial Complex in Chennimalai from 2011 to 2014, after having been declared as successful bidders in the auction conducted on 28.01.2011. The respective petitioners are paying monthly rent of Rs.1000/-. Since the lease period was to expire on 31.03.2014, the petitioners made applications seeking renewal on 27.01.2014. However, the said applications were rejected by the respondent stating that the petitioners should have applied three months prior to the date of expiry of the lease period, i.e, before 31.12.2013. Since there was a delay in submitting the applications seeking renewal, the request of the petitioners for renewal was rejected by the impugned order by the respondent. Challenging the said order, the petitioners are before this Court.

2. Heard Mr.G. Ethirajulu, learned counsel for the petitioners and Mr.V. Jayaprakash Narayanan, learned Special Government Pleader for the respondent.

3. As rightly contended by the learned counsel for the petitioners, as per Rule 11(2) and 23 of The Tamil Nadu Panchayats (Procedure for conducting public auction of leases and sales in Panchayats) Rules, 2001, the petitioners are automatically entitled to renewal for a further period of 3 years with increase in rent @ 15%. Therefore, the petitioners are entitled to the relief sought, he would contend.

4. On the other hand, Mr.V. Jayaprakash Narayanan, learned Special Government Pleader appearing for the respondent, would submit that as per Rule 23(2) of the above said Rules, the petitioners have to apply three months prior to the date of expiry of the lease period and therefore, the impugned order has been rightly passed.

5. Heard the parties and perused the records.

6. It is an admitted fact that the petitioners are lessees and they have been declared successful in the auction conducted on 28.01.2011. The period of lease was to expire on 31.03.2014. When Rule 11(2) contemplates automatic renewal, the petitioners are entitled to renewal of lease. No doubt, the application for renewal should have been made three months prior to the date of

expiry of the lease period, as contemplated under Rule 23(2) of the above said Rules. However, it is not mandatory. What is required to be seen is whether the petitioners have been carrying on business in the respective shops and whether they have applied for renewal in advance. The respondent cannot expect ordinary people to know the niceties of law. Once the petitioners came to know about the expiry of the lease period, immediately thereafter, they have applied and therefore, three months period contemplated under Rule 23(2) cannot be said to be mandatory. Since the petitioners have submitted applications seeking renewal, before the expiry of the lease period, the respondent is bound to renew the lease. Therefore, the impugned order is set aside and the respondent is directed to renew the lease/licence in respect of each of the petitioners, from 01.04.2014 to 31.03.2017, with 15% increase in payment of monthly rent. The writ petitions are disposed of accordingly. No costs. Connected M.Ps are closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

nv

To

The Commissioner,
Chennimalai Panchayat Union,
Chennimalai, Erode District.

6 CCs to Mr.G. Ethirajulu, Advocate SR.No. 53618

W.P. Nos. 3646 to 3651 of 2014

KJI (CO)
PSI (26.10.2015)

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