

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.4484 to 4490 of 2012
and

M.P.Nos.1+1+2+2+3 of 2012

Meharaj Begam ... Petitioner
M.Gunasekaran ... Petitioner in WP 4485/12
K.M.AbdulSathar ... Petitioner in WP 4486/12
A.Sahul Hameed ... Petitioner in WP 4487/12
K.Mohammed Ibrahim ... Petitioner in WP 4488/12
M.Shajahan ... Petitioner in WP 4489/12
M.Ramzan ... Petitioner in WP 4490/12

Vs.

1. Assistant Director of Town Panchayat,
Erode Region,
Erode District.

2. The Executive Officer,
Kodumudi Town Panchayat,
Kodumudi,
Erode District.

... Respondents 1 & 2 in all Wps

A.Moulana

... 3rd Respondent in WP 4484/12

R.Nagamani

... 3rd Respondent in WP 4484/12

(R3 impleaded as per order of this
court dated 18.2.15 in MP 3/12 in
WP 4484 & 4485/12)

PRAYER in W.P.Nos.4484 of 2012: Writ Petition is filed under under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in and by his Proceeding Na.Ka.No.10/2012/B, dated 17.02.2012, and quash the same, consequently direct the 2nd respondent to renew the lease period in respect of Shop Nos.2,6,5,1,4,7,3 and 2 respectively , in the 2nd respondent Town Panchayat Bus Stand at Kodumudi.

For Petitioner in all Wps. : Mr.V. Bharathidasan
for M/s A.Sundaravadhanan

For RR2 in all Wps. : Mr.R. Vijayakumar
Addl. Government Pleader

For RR1 in all Wps. : M/s.T. P. Savitha
Government Advocate

For Impleaded respondents
in Wps 4484 & 4485 of 2012 : Mr.M. Guruprasad

C O M M O N O R D E R

Heard Mr. V.Bharathidasan, learned counsel for the petitioners and Mr.R.Vijayakumar, learned Special Government Pleader for second respondent assisted by the learned counsel appearing for newly impleaded respondents.

2. In all the writ petitions, the petitioners are lessees in respect of small shops in the Kodumudi Town Panchayat, Bus Stand.

3. The learned counsel for the petitioners would submit that the petitioners were granted lease in respect of shops for three years from 2009 to ended in 2012. The petitioners would submit that they are entitled to benefits of G.O.Ms.No.92, MAWS Department, dated 03.07.2007 and entitled for renewal of lease, on agreement to pay 15% enhanced lease amount than the lease amount fixed for

20.11.2012. When the second respondent, the Executive Officer, Kodumudi Town Panchayat, Kodumudi, issued an auction notice on 17.02.2012, bringing for public auction, the lease of the shops. The petitioners challenged the same by way of these petitions and these petitioners had also obtained an order of interim stay.

4. It is stated that there are totally 10 shops, out of which, only 8 persons have challenged the auction notice and there is no challenge in respect of 2 shops and impleaded parties would submit that they are ready and willing to receive 40% enhanced amount. It is seen that by virtue of the stay granted by this court on 17.02.2012, the petitioners continued to have possession of the shops.

5. It appears that the rent of Rs.300/- was originally fixed for the year 2007-2012 and the counter affidavit states that there is a demand for the shops and the competitive bidders are ready to offer more than 40%. Since the petitioners claim benefit of G.O.Ms.No.92, MAWS Department, dated 03.07.2007 and taking into consideration the efflux of time, there will be a direction to the second respondent/Town Panchayat to issue notice to the writ petitioners namely 8 persons as to whether they are willing to accept the enhanced offer as proposed by them.

6. In any event, if such an offer is given, the petitioners are at liberty to accept the same. In the event if they are unwilling to pay the rent in respect of 8 shops, the second respondent is entitled to issue tender notice and proceed with the offer/objection except in respect of 2 shops which is not put to challenge. It is stated that already two bidders have offered certain amount. Those bids also can be put to competitive bids by notifying as to any other person is willing to pay more than the bid offered by those two persons impleaded in W.P.No.4484 and 4485/2012. The impleaded respondents should also be given an opportunity to match the offer in the event of enhanced offer.

7. It is made clear that in the event, if it is found there has been a change of user and the premises has not been used as shops, it is open to the respondent/Town Panchayat to proceed and conduct an enquiry before conducting auction for all the shops.

8. With the above observation, all these writ petitions are disposed of and the direction shall be complied with, within a period of four weeks from the date of receipt of copy of this order. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

Gv

To

1. Assistant Director of Town Panchayat,
Erode Region,
Erode District.
2. The Executive Officer,
Kodumudi Town Panchayat,
Kodumudi,
Erode District.

+1cc to Mr.M.Guruprasad, Advocate, S.R.No.9077
+1cc to Mr.V.Bharathidasan, Advocate, S.R.No.9190
+1cc to the Government Pleader, S.R.No.9240

सत्यमेव जयते

W.P.Nos.4484 to 4490 of 2012
and

M.P.Nos.1+1+2+2+3 of 2012

JSV(CO)
CA(12/03/2015)

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