

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.6050 of 2015

M.P.No.1 of 2015

R.Krishnamoorthy

... Petitioner

vs.

1. The Inspector of Panchayats
and District Collector
Salem District, Salem
2. The Executive Officer
Selection Grade Town Panchayat
Tharamangalam, Omalur Taluk
Salem District
3. The President
Selection Grade Town Panchayat
Tharamangalam, Omalur Taluk
Salem District

.... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondents to extend the period of lease to collect fees/toll in the weekly market (Weekly shandy), Tharamangalam Town Panchayat, Tharamangalam, Omalur Taluk, Salem District by three years from 01.4.2015 to 31.3.2018 in favour of the petitioner as per G.O.Ms.No.92, Municipal Administration and Water Supply Department dated 03.07.2007.

For Petitioner : Mr.P.Mani

For Respondents : Mr.V.Jayaprakash Narayanan
Special Government Pleader - R1
Mr.V.R.Kamalanathan for R2 and R3

ORDER

Heard Mr.P.Mani, learned counsel for the petitioner and Mr.V.Jayaprakash Narayanan, learned Special Government Pleader appearing for the 1st respondent and Mr.V.R.Kamalanathan, learned counsel for 2nd and 3rd respondents and with the consent of either

side, the writ petition itself is taken up for final disposal at the admission stage.

2. The petitioner seeks for issuance of a writ of mandamus directing the respondents to extend the period of lease to collect fees/toll in the weekly market, Tharamangalam Town Panchayat, Tharamangalam, Omalur Taluk, Salem District by three years from 01.4.2015 to 31.3.2018 in favour of the petitioner as per G.O.Ms.No.92, Municipal Administration and Water Supply Department dated 03.07.2007.

3. The petitioner is a lessee under the second respondent Panchayat to collect the fees/ toll in the daily market. The lease period would come to an end on 31.3.2015. According to the petitioner, he has submitted a letter dated 02.3.2015 requesting the respondent to extend the lease period by another three years. The petitioner has also expressed his readiness and willingness to remit the lease amount as per the G.O.Ms.No.92 Municipal Administration and Water Supply Department. But without considering the said request, the impugned notice has been issued by the respondents.

4. The petitioner would challenge the impugned Auction notice on the ground that as he has exercised option, as per G.O.Ms.No.92, requesting for renewal of lease and agreeable for enhanced lease amount, the respondents ought not to have decided to conduct public auction.

5. The First Bench of this Court in the case in P.Muthusamy vs. State of Tamil Nadu, rep.by its Secretary to Government, Municipal Administration and Water Supply Department, Chennai and another (2014) 5 MLJ 129 has held in paragraph No.21 as follows:

"21. A perusal of the Government Orders referred to above as well as the orders impugned make it clear that the rent has been fixed based upon the prevailing market value and not otherwise. What has been given by way of extension to an existing licensee was only a concession. The subsequent extension has been made during the pendency of the writ petitions. The said decision was made in view of the undertaking given by the licensees. An undertaking was given in connection with the payment as well as on the withdrawal of the writ petitions. The Government Orders also state that in the event of non compliance of the conditions imposed including the payment of appropriate rent, a licensee is liable to be removed."

6. Following the same, this Court, in WP.No.4633 of 2015 etc batch, has disposed of the matters with the following direction:-

6. Thus, by applying the decision of the Honourable First Bench, referred to supra, these writ petitions are disposed of by directing the first respondent Town Panchayat to intimate to the petitioners the lease amount, which they should agree to pay, which according to the respondents is as per the norms fixed by the Government/P.W.D for determination of the lease amount of public buildings. On such intimation being given to the petitioners, the petitioners shall exercise option and if they are willing to accept the amount, then the respondent Town Panchayat shall extend the lease for further period of three years on such agreed terms and on such payment of enhanced lease amount. On the contrary, if the petitioners are unwilling to accept the offer made by the Town Panchayat, then the respondent Town Panchayat is entitled to bring the shops for public auction and the petitioners should vacate and handover possession of the shops to the respondent. Since the auction is scheduled to be conducted on 25.02.2015, the respondent/Panchayat shall intimate the lease rental, which they propose to fix, before conduct of auction on 25.2.2015.

Accordingly, this writ petition is also disposed of on the above terms. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssd
To

1. The Inspector of Panchayats
and District Collector
Salem District, Salem
2. The Executive Officer
Selection Grade Town Panchayat
Tharamangalam, Omalur Taluk
Salem District

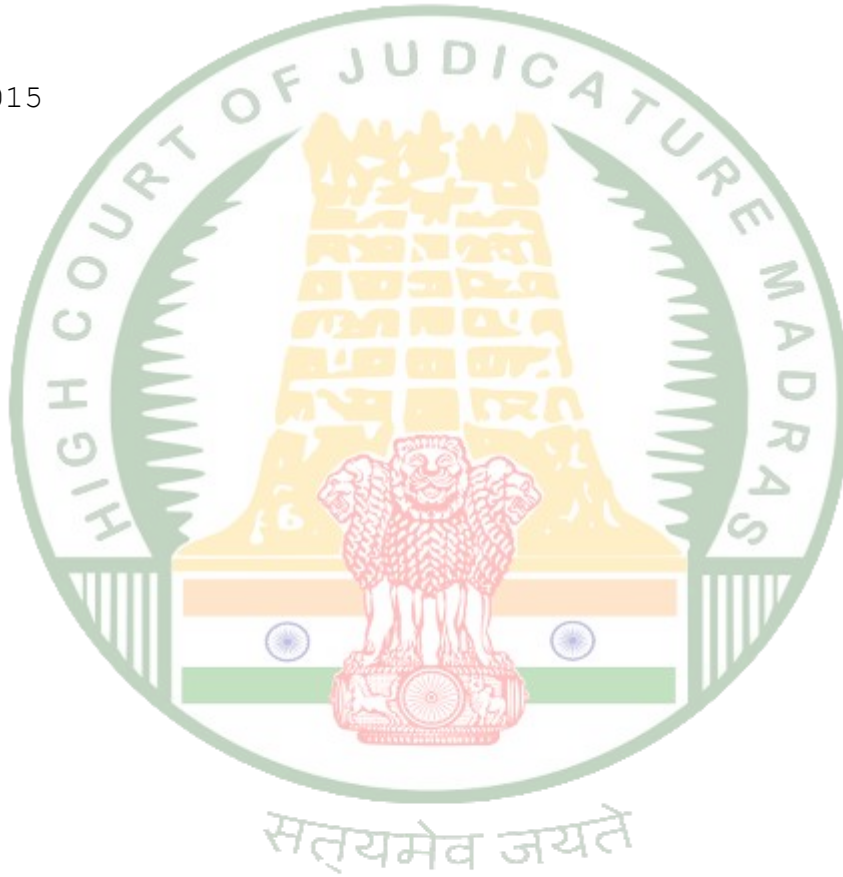
3. The President
Selection Grade Town Panchayat
Tharamangalam, Omalur Taluk
Salem District.

1 cc to Mr.V.R.Kamalanathan ,Advocate, SR.No.12145

1 cc to M/s. P.Mani,Advocate, SR.No.12225

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