

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.7830 & 7831/2015
&
MP.Nos.1 & 1/2015

T.Saraswathi

...Petitioner
in both the writ petitions

Versus

The Commissioner
Palladam Municipality
Municipal Administration cum
Water Supply Department,
Palladam, Tirupur District.

...Respondent
in both the writ petitions

Writ petitions filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records pertaining to the Final Notice issued by the respondent herein in Na.Ka.Nos.Nil/2013/A2 and Nos.1422/2013/A2 dated 13.03.2015 in respect of the Shops No.2 and 6 in the Palladam Bus Stand, Palladam, Tirupur District and quash the same and further direct the respondent herein to extend the lease to the petitioner for the Shops No.2 and 6 in the Palladam Bus Stand, Palladam, Tirupur District for the period lost in Bus Stand renovation work between 03.08.2014 and 17.02.2015.

For Petitioner in
both the writ petitions : Mr.P.M.Duraisamy

For Respondent in
both the writ petitions : Mr.A.S.Thambusamy
for Mr.B.Anand

COMMON ORDER

Since the issue involved in these writ petitions and the parties are one and the same, the above writ petitions are disposed of by the following common order.

2. Heard Mr.P.M.Duraisamy, learned counsel appearing for the petitioner and Mr.A.S.Thambusamy, learned counsel accepting notice for the respondent and with their consent, the writ petitions itself are disposed of at the admission stage itself.

3. The petitioner has filed the above writ petitions challenging the Final Notices issued by the respondent dated 13.03.2015 in respect of Shops No.2 and 6, Palladam Bus Stand, Palladam, Tirupur District and to extend the lease period to the petitioner in respect of the said shops.

4. The undisputed facts are that the petitioner is the lessee of Shops Nos.2 and 6 in the Palladam Bus Stand and she has been granted lease for a period of three years and the lease is to expire on 31.03.2015. Pending impugned orders, the petitioner has been directed to pay a sum of Rs.48,181/- and Rs.51,366/- respectively, being the arrears of rent payable in respect of shops which have been granted in lease to her, bearing Shops No.2 and 6 respectively. The petitioner would contend that she is not a defaulter. Since the amounts demanded is the rent for the period from August 2014 to February 2015, during which the Bus stand was under renovation and the petitioner was unable to enjoy the leasehold right. According to the petitioner, the Bus stand was closed and renovation work was going on from 03.08.2014 to 17.02.2015.

5. The learned Standing counsel for the respondent/Municipality submitted that there is no dispute to the fact that the Bus Stand was closed during the period mentioned above and the petitioner may be entitled for exemption from paying rents in respect of those two shops for the said period and a decision in this regard has to be taken by the Municipal Council and ultimately, the Collector has to approve the same. Further, it is submitted that the petitioner has sub-leased the shops and when the notice was issued, the sub-lessees have appeared before the respondent and stated that they are in possession of the shops in question.

6. So far as the demand made by the respondent in the impugned proceedings is concerned, the respondent/Municipality concedes to the

position that the shops were not put up to use during the said period for which the impugned demand has been made since renovation work was going on in the Palladam Bus Stand. As regards exemption from paying rents by the petitioner in respect of those two shops for the closure period, i.e., from 03.08.2014 to 17.02.2015, it is seen that already the District Collector considered a similar objection and granted waiver vide proceedings dated 12.09.1998. Therefore, there can be no difficulty for grant of waiver to the petitioner for the period of closure, i.e., between 03.08.2014 and 17.02.2015.

7. Insofar as the allegation of sub-letting raised by the respondent/Municipality against the petitioner, that is not the basis of the impugned proceedings nor there is any reference to the allegation of sub-letting in the said premises. Therefore, the contention raised regarding sub-letting cannot be gone into in these writ petitions and it is left open to the respondent/Municipality to proceed in accordance with law in respect of the said allegation.

8. In the light of the fact that the Bus stand was not in operation for the said period from 03.08.2014 to 17.02.2015, the respondent is not justified in demanding rent for the said period, since the respondent do not dispute the closure period. Consequently, the petitioner is liable for exemption for the said period from paying rents in respect of Shops No.2 and 6.

9. The writ petition is allowed and the impugned Final Notices dated 13.03.2015 is hereby quashed. The respondent is restrained from demanding rent from the petitioner in respect of Shops No.2 and 6 for the period from 03.08.2014 to 17.02.2015. However, in respect of the period during which the petitioner was in enjoyment of the lease, i.e., prior to 03.08.2014 and subsequent to 17.02.2015, the petitioner is liable to pay the rents. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

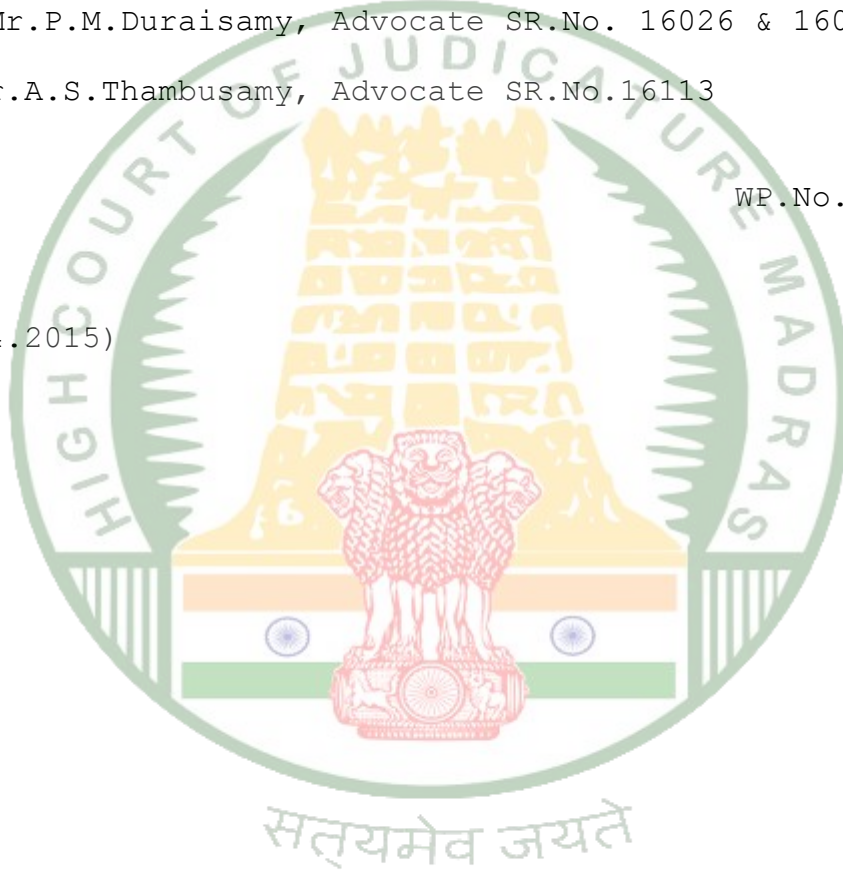
The Commissioner
Palladam Municipality
Municipal Administration cum
Water Supply Department,
Palladam, Tirupur District.

2 CCs to Mr.P.M.Duraisamy, Advocate SR.No. 16026 & 16027

1 CC to Mr.A.S.Thambusamy, Advocate SR.No.16113

WP.No.7830 & 7831/2015

VD (CO)
PSI (01.04.2015)



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