



Heard both sides.

2.The petitioner in Sub Application (MD) No.90 of 2015 was allowed to hold Private Weekly Market for the sale of sheep and goats on every Saturdays in his land. In fact, his ancestors are doing the same for the past 100 years. The weekly market was held at Saturdays on D.No.175, 176, 177, Ward No.6, Ettayapuram Town Panchayat, owned by the petitioner. License in this regard was issued every year by the respondent Town Panchayat.

3.When an application was filed for renewal of license for the period from 01.04.1997 to 31.03.1998, the same was rejected by an order dated 27.02.1997. Therefore, the petitioner filed W.P.No.4131 of 1997 before the Principal Bench and the same was allowed by an order dated 02.09.1997. The respondent filed W.A.No.1169 of 1997. But, the writ appeal was dismissed by an order dated 21.10.1997.

4.Therefore, the petitioner submitted an application for renewal of licence on 19.11.1997. Again, the respondent rejected the renewal of licence on 21.11.1997. The petitioner filed W.P.No.18910 of 1997 and the same was allowed on 27.10.1998. The writ appeal preferred by the respondent in W.A.No.1535 of 1998 was dismissed on 24.08.1999. The respondent filed S.L.P.No.19090 of 1999. The Apex Court dismissed the same on 20.04.2000.

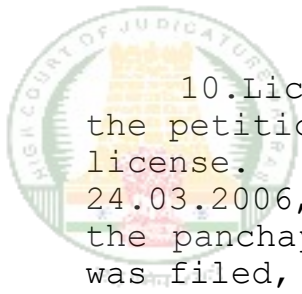
5.Again, when the petitioner filed another application for renewal of licence on 26.02.1999, the same was rejected. The petitioner filed W.P.No.7092 of 1999. The same was allowed by this Court on 04.10.1999.

6.Again, application made for renewal was rejected vide order dated 27.05.2002. The petitioner filed W.P.No.40814 of 2002. This time also writ petition was allowed on 11.03.2004. The respondent filed W.A.No.3518 of 2004. The writ appeal was dismissed as withdrawn.

7.While so, the petitioner filed Cont. P(MD) No.196 of 2005. The petitioner was granted license on 09.11.2005 and permitted to hold weekly market on every Saturday till March 2006.

8.However, before the expiry of the period of license, again, the respondent cancelled the license by an order dated 08.12.2005. The petitioner filed W.P.(MD)No.11405 of 2005 and obtained stay.

9.While so, a notification dated 11.11.2005 was issued under the Land Acquisition Act, 1894, declaring that the panchayat alone to have rights to hold private market on Saturday. W.P.(MD) NO.1059 of 2006 was filed to quash the notification and interim stay was obtained.



10. License granted on 09.11.2005 expired on 31.03.2006. Hence, the petitioner submitted an application on 27.02.2006 for renewal of license. The respondent rejected the same by an order dated 24.03.2006, citing the notification declaring exclusive rights of the panchayat to hold the market. Hence, W.P.(MD) No.3211 of 2006 was filed, challenging the said order.

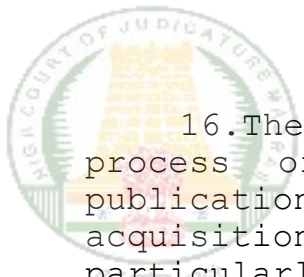
11. The petitioner preferred an application for renewal of license and the same was also rejected. The petitioner filed W.P. (MD) No.7093 of 2007, challenging the said rejection order. The aforesaid writ petitions in W.P.(MD) Nos.11405 of 2005, 1059 and 3211 of 2006 and 7093 of 2007, were allowed, by setting aside the impugned orders on 13.12.2011 by a common order and directing the respondents to consider the application to hold private weekly market in the petitioner's land.

12. While so, since the order was not complied with, the petitioner filed Cont. P.(MD) No.461 of 2013. The respondent filed Writ appeal and Division Bench refused to grant stay. Hence, the petitioner filed Sub A(MD) No.90 of 2015 to renew licence to conduct private weekly market in favour of the petitioner on Saturdays in his land in Door Nos.175, 176 and 177, Ward No.6, Ettayapuram, Thoothukudi District during the pendency of the contempt petition.

13. The respondent has also filed Sub A(MD) No.96 of 2015, to accept the affidavit and direct the panchayat to complete the acquisition process in accordance with law.

14. This Court passed an order as early as on 13.12.2011, directing the respondent to renew the licence and also it was held therein that it was their right to acquire the lands of the petitioner to hold market. So far even after four years, the rights of the petitioner in holding weekly market was not acquired in the manner known to law and also the petitioner was not granted renewal of licence to hold the market. Earlier, a series of order passed by this Court and the Apex Court has also confirmed the same at one point as stated above. Therefore, I am of the view that the application filed by the petitioner in Sub Application (MD) NO.90 of 2015 has to be allowed.

15. Accordingly, Sub A(MD) No.90 of 2015 is allowed and the respondent is directed to renew the licence to conduct private weekly market in favour of the petitioner on Saturdays in his land in Door Nos.175, 176 and 177, Ward No.6, Ettayapuram, Thoothukudi District, within a period of two weeks from the date of receipt of a copy of this order.



16.The learned counsel for the respondent submitted that the process of acquisition is going on and she produced paper publication dated 26.03.2014 to show that steps are taken for acquisition. This cannot be a reason for not renewing the licence, particularly, when this Court passed the order four years back and also passed series of orders as stated above. The application filed by the respondent in Sub A(MD) No.96 of 2015 is hereby dismissed. No costs.

sd/-
01/04/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

MR. SUBRAMANIAN,
THE EXECUTIVE OFFICER,
ETTAIYAPURAM SPECIAL
VILLAGE PANCHAYAT, NOW ETTAIYAPURAM
SELECTION GRADE TOWN PANCHAYAT,
ETTAIYAPURAM, TUTICORIN.

+1. C.C. to M/S.S.SRIMATHY, Advocate SR.No.16795

+One cc to M/S.AJMAL ASSOCIATES, Advocate, SR.No.16831

RL/4C - 8/4/2015

ORDER
IN
SUB A(MD) Nos.90 &96 of 2015
IN
CONT P(MD) No.461 of 2013
Date :01/04/2015