

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Appeal Nos.1789 to 1791 of 2015
and connected MPs.

P.Prakash ..Appellant in
all the above Writ Appeals/Petitioner
Vs

1.Commissioner of Town Panchayats
Kuralagam, Chennai-104

2.Thammampatti Town Panchayat (Selection Grade)
rep. By its Executive Officer
Thammampatti
Gangavalli Taluk, Salem District

3.R.Balasubramanian

4.P.Balasubramanian ..Respondents 1 to 4 in
W.A.1789/2015

1.State of Tamil Nadu
rep. By its Secretary to Government
Municipal Administration and Water Supply
Department (T.P-4)
Secretariat, Chennai-9

2.Commissioner of Town Panchayats
Chennai-108

3.District Collector
Salem District, Salem

4.Executive Officer
Thammampatti Town Panchayat (Selection Grade)
Thammampatti, Gangavalli Taluk
Salem District

5.R.Balasubramanian ..Respondents 1 to 5 in
W.A.No.1790 of 2015

1.Executive Officer

Thammampatti Town Panchayat (Selection Grade)
Thammampatti, Gangavalli Taluk
Salem District

2.R.Balasubramanian ..Respondents 1 and 2 in
W.A.No.1791 of 2015

Writ Appeals filed against the order made in W.P.Nos.10254,
20197/15 and 14406/15 and dated 20.11.2015.

WP.20197/15: Petition presented to this Court to issue a writ of certiorarified mandamus calling for the entire records relating to the Resolution No.577 (1) dated 01.04.2015 in so far as the petitioner herein is concerned and the consequential orders in Na.Ka.No. 7/2015/A-2 dated 01.04.2015 and 12.06.2015 on the file of the 2nd respondent herein and quash the same and consequently direct the respondents 1 and 2 herein to renew the lease for Shop No.5 J.V.V.T. Complex in favour of the Petitioner herein without reference to G.O.Ms.No.181 Municipal Administration and Water Supply Department dated 19.09.2008.

WP.No.10254/15: Petition presented to this Court to issue a writ of certiorarified mandamus calling for the entire records relating to the Notification in Na.Ka.No.7/2015/A2 dated 19.3.2015 on the file of the 4th respondent proceedings in so far as the same relates to Shop No.5 J.V.V.T. Shopping Complex and quash the same and consequently direct the respondents 1 2 and 4 herein to forthwith renew the lease for Shop NO.5 J.V.V.T. Shopping Complex in favour of the petitioner herein accepting enhanced rent as stipulated in G.O.Ms.NO.92 Municipal Administration and Water Supply Department dated 3.7.2007 up to 31.3.2021.

WP.No.14406/15: Petition presented to this Court to issue a writ of certiorarified mandamus Calling for the entire records relating to the proceedings in Na.Ka. No.07/2015/A-2 dated 11.4.2015 on the file of the respondent herein and quash the same and consequently direct the respondent herein not to obstruct the business of the petitioner herein in any manner on payment of enhanced rent for Shop No.5 J.V.V.T. Shopping Complex.

For appellant:- Mr.V.R.Rajasekaran

For respondents:-Mr.P.S.Sivashanmugasundaram

Spl.Govt.Pleader for R1 & 2 in WA.1789/15 and

RR1 to 3 in Wa.1790/15 and 1st Respondent in

WA.1791/15 Mr.V.Ravichandran, Advocate for 3rd

Respondent in WA.1789/15, 4th respondent in WA.1790/15
and no appearance for R4 in WA.1789/15, 1790/15

COMMON JUDGMENT

(Judgment of this Court was made by HULUVADI G. RAMESH, J.)

These Writ Appeals arise out of the the order passed in Writ Petition Nos.10254, 14406 and 20197 of 2015, wherein, the prayer made by the appellant herein to renew the lease for Shop No.5, J.V.V.T. Shopping Complex, in favour of the petitioner/appellant, was rejected.

2. The issue raised herein is in respect of auction notice issued by the Thammampatti Town Panchayat, wherein, its stand is the benefit of G.O.Ms.No.92 dated 03.07.2007 cannot be extended to the appellant/writ petitioner, as the subject auction was conducted in accordance with G.O.Ms.No.181 dated 19.09.2008.

3. The learned counsel appearing for the appellant vehemently argued that the auction notification is contrary to G.O.Ms.No.92, Municipal Administration and Water Supply Department dated 03.07.2007 and the date of auction itself is not supported by any records.

4. The learned Single Judge, after going through the records and submissions made on either side, has given reasons for dismissing the plea of the appellant herein in detail in Paragraph Nos.12, 13, 14 and 15. The learned Single Judge noted the conduct of the petitioner by going through his averments that the auction was not widely published and there was no cartel etc., and gave a finding that except the petitioner, there has been no other person has challenged the auction, and no other person is said to have approached this Court raising similar plea. It is also noted by the learned Single Judge that the successful bidder having offered Rs.50,500/- and the amount having been remitted by him in full and unable to enjoy the lease hold right, on account of the interim order granted by this Court and hence, for the said reason, not inclined to set aside the lease granted in favour of R.Balasubramanian. The learned Single Judge, pointed out that shop in question is owned by a local body and augmenting the revenue of a local body is important to carry out the welfare measures for the public. The Town Panchayat has been able to receive a monthly rent of Rs.50,500/- as against the offer made by the petitioner at Rs.12,127.50 p + 15% enhancement, wherein, the upset price fixed for the said shop was Rs.19,500/-.

5. We are of the considered view that the findings recorded by the learned Single Judge is perfectly in order and therefore, we do not find any justifiable ground to accept the plea of the appellant.

6. Accordingly, while confirming the order passed by the learned Single Judge, we dismiss the Writ Appeals as devoid of merits. No

costs. Consequently, connected MPs are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Commissioner of Town Panchayats
Kuralagam, Chennai-104

2.The Executive Officer
Thammampatti Town Panchayat (Selection Grade)
Thammampatti
Gangavalli Taluk, Salem District

3.The Secretary to Government of Tamilnadu
Municipal Administration and Water Supply
Department (T.P-4)
Secretariat, Chennai-9

4.Commissioner of Town Panchayats
Chennai-108

5.District Collector
Salem District, Salem

6.Executive Officer
Thammampatti Town Panchayat (Selection Grade)
Thammampatti, Gangavalli Taluk
Salem District

+1 cc to Mr.V.R.Rajasekaran, Advocate, sr.40323

+1 cc to Govt.Pleader, sr.39984.

nm(co)
krd 5/8

W.A.Nos.1789 to 1791 of 2015

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