

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2016

C O R A M

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.Nos.1217 & 1218 of 2016 &
WMP Nos.955 & 956 of 2016

P.S.Sivakumar ... Petitioner in W.P.No.1217 of 2016
M.Parameswari ... Petitioner in W.P.No.1218 of 2016

Vs

- 1 The District Collector
Coimbatore District
Coimbatore.
- 2 The Executive Officer
Karamadai Town Panchayat
Karamadai, Coimbatore. ... Respondent in both W.Ps.

Writ Petitions filed under Article 226 of the Constitution of India, praying to issue Writ of Mandamus, to direct the respondents to consider the representations submitted by the petitioners dated 29.10.2015 and 08.01.2016 for revision of rent in respect of Shop No.3 allotted to the petitioners as it is being considered for all the 11 shops allotted by the same Auction Notification issued in Na.Ka.No. 190/2015/A3 dated 12.03.2015 and consequently forbear the Respondents from resorting to any distraint action till the consideration of revision of lease rent.

For Petitioners... Mr.G.Sankaran

For Respondents... Mr.R.Rajeswaran - R1
Spl.Govt. Pleader
Mr.Premnath - R2

C O M M O N O R D E R

Heard Mr.G.Sankaran, learned counsel for the petitioners, Mr.R.Rajeswaran, learned Special Government Pleader accepting notice for the first respondent and Mr.Premnath,

learned Counsel accepting notice for the second respondent and with the consent of the learned counsel appearing on either side, the writ petitions are taken up for final disposal.

2.The petitioners have participated in the auction conducted by the second respondent Town Panchayat in respect of the Town Panchayat's shops, they have been declared as successful bidders and each of the petitioners have to pay the monthly rent of Rs.21,300/-. The petitioners have filed these Writ Petitions admitting that they have defaulted in payment.

3.If there is a default, the petitioners have got no right to continue in occupation. An argument is advanced on behalf of the petitioners that no confirmation of auction has been accorded in favour of the petitioners. If that being the case, the petitioners have no locus standi to maintain the Writ Petitions, as they are not at all lessees in the eye of law. Faced with this situation, the learned counsel for the petitioners submits that the petitioners respective representations may be considered for reduction of the lease rent.

4.Firstly, for being entitled to any consideration, the petitioners should first clear all the dues, as per the original offers made by them, which were accepted by the respondent Town Panchayat. Without clearing the lease rent arrears, the question of directing the respondents to consider any request for reduction of lease rent does not arise. In any event, the transactions between the petitioners and the second respondent is purely a commercial transaction and merely because the second respondent is a Town Panchayat, that cannot be the reason for the Town Panchayat to reduce the lease rent as demanded by the petitioners. Such a request could not be made even if the shops were owned by a private person.

5.Therefore, the relief sought for in the Writ Petitions cannot be granted. However, the petitioners are permitted to clear the entire lease rent arrears, within a period of four weeks from the date of receipt of a copy of this order. If they fail to do so, the petitioners are liable to be evicted from the Shops and the respondent Town Panchayat is entitled to bring the Shops for re-auction. With regard to the plea of reduction of lease rent, this Court does not wish to make any observations, but, it is for the petitioners to express their grievance before the second respondent after complying with the conditions imposed by the second respondent Town Panchayat.

The Writ Petitions are dismissed with the above observations. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

rpa

To

- 1 The District Collector
Coimbatore District
Coimbatore.
- 2 The Executive Officer
Karamadai Town Panchayat
Karamadai, Coimbatore.

+2cc to Mr.Sankaran, Advocate, S.R.No.17171

+2cc to Government Pleader Sr.16967, 16805 Advocate, S.R.No.

MG(CO)
EU(30/03/2016)

W.P.Nos.1217 & 1218 of 2016

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