

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.NOS.12750 AND 12754 OF 2016
AND WMP NOS.11150 AND 11154 OF 2016

R.Muthusamy

.. Petitioner in
W.P.No.12750/2016

P.Viswanathan

.. Petitioner in
W.P.No.12754/2016

Versus

1.State represented by the Secretary
Municipal Administration and
Water Supply Department
Fort St. George,
Chennai - 600 009.

2.The Commissioner
Thirupur Corporation
(Formerly Thirupur Municipality)
Thirupur District.

... Respondents in
both WPs'

PRAYER IN W.P.NO.12750/2016: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, to call for the records in respect of the order dated 06.01.2016 in Na.Ka.No.A2/2068/2015 passed by the second respondent, quash the said order, directing the second respondent to renew the lease period of petitioner's shop No.25, of Old Bus Stand, Thirupur, upto 31.03.2017.

PRAYER IN W.P.NO.12754/2016: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, to call for the records in respect of the order dated 06.01.2016 in Na.Ka.No.A2/2068/2015 passed by the second respondent, quash the said order, directing the second respondent to renew the lease period of petitioner's MUDF shop No.18 of Old Bus Stand, Thirupur, upto 31.03.2017.

For Petitioner
(in both WPs') : Mr.C.S.Dhanasekaran

For Respondent-1
(in W.P.No.12750/2016): Mr.R.Lakshmi Narayanan
Additional Government Pleader

For Respondent-1
(in W.P.No.12754/2016): Mr.J.Balagopal
Additional Government Pleader

For Respondent -2
(in both WPs') : Mr.S.Silambanan
Senior Counsel for
Ms.P.Shanthi

COMMON ORDER

Heard the submissions made by the learned counsel appearing on either side.

2.By consent, these writ petitions are taken up for final disposal at the admission stage itself.

3.The present writ petitions have been filed challenging the proceedings issued by the respondent Corporation dated 06.01.2016, by which the petitioners have been informed that their lease period in respect of the shops in question comes to end on 30.03.2016.

4.Earlier, Thirupur Municipality Shop Merchants Association represented by its Secretary R.Muthusamy, filed a writ petition before this Court in W.P.No.20997 of 2015. In the said writ petition, the Association challenged the proceedings of the respondent Corporation dated 24.06.2015 and they sought for consequential direction, to renew the lease period of the shops of the Members of the petitioner-Association upto 31.03.2018.

5.It is interesting to note that the Secretary of the said Association Mr.R.Muthusamy is the petitioner in W.P.No.12750 of 2016. In the said writ petition viz., W.P.No.20997 of 2015, the contention raised was that the said Muthusamy has been granted the additional benefit of extending his lease upto 31.03.2017 and therefore, it is pointed out that there was discrimination apart from victimisation being shown. This Court took into consideration all the matter and allowed the writ petition and remanded the matter to the second respondent for fresh consideration vide order dated 11.12.2015. The operative portion of the order reads as follows:

"7.As pointed out earlier, since the petitioner is an Association and the details pertaining to all the members such as Shop Nos., Rent fixed, date on which they became lessees originally etc., are not placed before this Court by the petitioner Association, this Court is of the view that the matter should be reconsidered by the 2nd respondent, taking note of the observations made in this order which are in fact directions to be complied with by the 2nd respondent and the exercise should be done after due opportunity to the petitioner Association and its members by sending individual notices to the individual members and thereafter, the Government Order should be uniformly applied to all lessees. The petitioner Association shall be heard in person on behalf of all its members.

8.In the light of the above, the Writ Petition is allowed and the impugned order is quashed and the matter is remanded to the 2nd respondent for fresh consideration to comply with the above directions issued by this Court after affording opportunity of personal hearing to the petitioner Association on behalf of its members, however individual notices to all the aggrieved lessees shall be issued which is stated to be 90. It is made clear that the above exercise is required to be carried out only in respect of persons who became lessees prior to 03.07.2007 and the present writ petition also pertains only to such of those lessees who are said to be 90 in numbers."

6.Now, the petitioners would state that they are the lessees in respect of the two shops and they do not fall in list of 90 persons, whose cases were considered by this Court in the earlier writ petition. Firstly, it has to be pointed out that both the petitioners have continued as lessees for more than 40 years. Their plea is that they are entitled to the benefit of G.O.Ms.92, Municipal Administration and Water Supply Department, dated 03.07.2007. This plea is absolutely forfeited and without any basis, since the said Government Order contemplates only extension of lease up to nine years with a revision of period once in a block period of three years. By any stretch of imagination, the said Government Order would not apply to the petitioners case, when particularly Mr.Muthusamy, being an Office Bearer of the Association, has managed to obtain a proceedings from the Assistant Commissioner of the Municipality stating that his lease is extended up to 31.03.2017. The

respondent Corporation had woken up only after the order was passed by this Court in the earlier writ petition.

7. Therefore, now the respondent Corporation has acted in a proper manner and correctly held that beyond 30.06.2016, the petitioners are not entitled for the benefit of lease. The plea of the petitioners is that they were not issued any notice and that there is violation of principles of natural justice. Their plea is stated to be rejected since the petitioners were Members of the Association, which filed writ petition earlier and one of them was the Secretary of the Association. The respondent Corporation is always entitled to set right any wrong which is being committed at a lower level, by which the petitioners have managed to get a proceedings from the Assistant Commissioner stating that their lease is continued till 31.03.2017.

8. Above all, the underlined purpose for which auction is conducted cannot be lost sight of. The purpose is to generate revenue to implement the welfare schemes of the Corporation to benefit the public in that area. Therefore, the question of extending the lease only to the petitioners up to 2017 does not arise.

9. Hence, for all the above reasons, the petitioners have not made out any case. Accordingly, both the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS V)

//True Copy//

Sub Assistant Registrar

सत्यमेव जयते

To

1. The Secretary
Municipal Administration and
Water Supply Department
Fort St. George,
Chennai - 600 009.

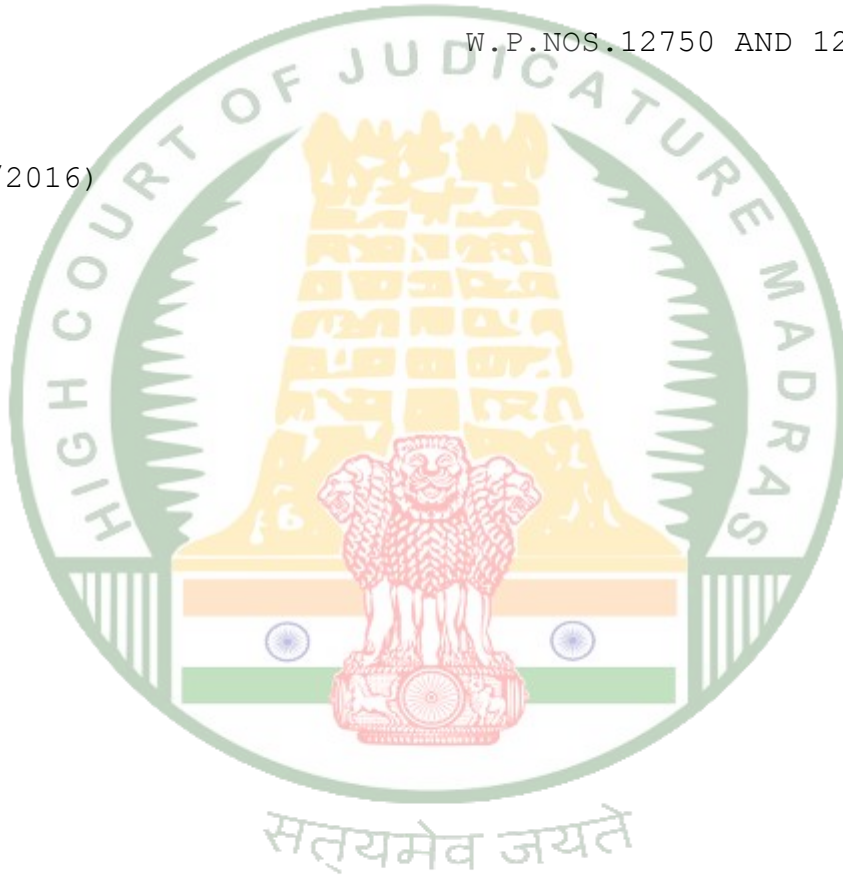
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2.The Commissioner
Thirupur Corporation
(Formerly Thirupur Municipality)
Thirupur District.

+2cc to Mr.C.S.Dhanasekaran, Advocate, S.R.No.21545,21546
+1cc to Mrs.P.Shanthi, Advocate, S.R.No.21368
+1cc to the Government Pleader, S.R.No.21703
+1cc to the Government Pleader, S.R.No.21702

W.P.NOS.12750 AND 12754 OF 2016

pvs (CO)
srg (26/04/2016)



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