

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.19784 of 2016

and

WMP.Nos.17086 and 17087 of 2016

C.Shanmugaraj

... Petitioner

Vs.

1. The Commissioner,
Udumalpet Municipality,
Udumalpet.

2. The Revenue Divisional Officer,
Udumalpet, Tiruppur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records on the file of the first respondent in respect of the tender publication Dina Thanthi Tiruppur Edition dated 28.05.2016 issued by the first respondent bringing for auction to fix the lease rent for the Community Hall situated at Chairman Kanagarajan Salai, Udumalpet, Tiruppur District and quash the same.

For Petitioner : M/s.Waraon and Sai Rams

For Respondents : Mr.A.S.Thambuswamy for R1
Mr.V.S.Ramesh

Government Advocate for R2

O R D E R

By consent, this writ petition is taken up for final disposal.

2. The petitioner would state that it carrying on the business of running Community Hall by letting out the same for marriage and other functions and for that purpose, taken on lease the Community Hall constructed by the first respondent in pursuant to the lease granted to him on 07.06.2007 for a period of three years from the date of handing over possession. The petitioner would further state that on the expiry of the lease, he has requested the first respondent, vide representation dated 12.04.2010, to extend the licence

for a further period of 9 years from June 2010 for the reason the petitioner has already spent more than Rs.20.00 lakhs for improvement and renovation of the hall and had been continuously serving the needy for a subsidized rent. The petitioner would further state that though no order has been passed on his representation dated 12.04.2010, the first respondent permitted the petitioner to continue as licensee in the said Community Hall. However, to his shock and surprise, the first respondent has issued a tender notification dated 28.05.2016 inviting applications for running the said Community Hall by way of Licence.

3. The grievance expressed by the petitioner is that in terms of G.O.Ms.No.92, Municipal Administration Department dated 03.07.2007, he is entitled to renewal for a further period of 9 years from the date of expiry of the original licence during June 2010 and challenging the legality of the impugned tender notification, the petitioner has filed this writ petition.

4. The learned counsel appearing for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that as per original licence, the lease granted has expired during June 2010 and in terms of the above said Government Order, he is entitled for automatic renewal of licence upto 2019 and without passing any orders on his representation, licence fee tendered has been accepted for nearly 7 years and thereby implied the acceptance for the continuation of licence in terms of the above said Government Order. The learned counsel appearing for the petitioner, in support of his submissions, placed reliance upon the judgment in T.M.Duraisamy v. State of T.N. [2015 SCC OnLine Mad 4981] in and by which, this Court, after extracting the above said Government Order and after considering the Judgment of the Division Bench of this Court in P.Muthusamy v. State of Tamil Nadu [(2014) 5 MLJ 129], has directed the concerned local body to indicate the lease rent and fix the same and pass appropriate orders, if the petitioner therein is willing to accept the same.

5. Per contra, the learned counsel appearing for the first respondent has drawn the attention of this Court to the judgment dated P.V.Subramanian and Another v. Secretary to Government, State of Tamilnadu, Municipal Administration and Water Supply Department, Chennai and Others [(2015) 4 MLJ 164] and the order dated 18.02.2016 made in W.P.No.39436 of 2015 [Punjai Puliyampatti Municipality v. The Commissioner of Municipalities Administration, Chennai] and would submit that public interest is more important and the first respondent local body by conducting auction is entitled to get more revenue than that of extending the licence in favour of the petitioner and prays for dismissal of this writ petition.

6. This Court has considered the rival submissions and also perused the materials placed before it.

7. In the case on hand, the petitioner was originally granted licence on 07.06.2007 for a period of three years and in pursuant to the accommodation given by the first respondent, he continued for another six years from the date of expiry of the licence during June 2010 and thus, he has completed 9 years. In the judgment in (2015) 4 MLJ 164 (cited supra) it has been held that in terms of para 43 of the above said Government Order, the Government has given a discretion to the local body to re-determine the lease amount of the shop or land after the expiry of nine years period and an option has been given to the local body to offer the same to the existing lessee at the re-determined rate and if he consents for accepting the re-determined lease amount, the benefit of extension of lease could be granted by giving preference to the existing lessees and thus, discretion is vested with the local body and it cannot be read to mean as a compulsion nor it could be said that the existing lessee, who has been continuing for nine years, has a vested right to continue for another nine years.

8. In the light of the said judgment, this Court is of the view that the petitioner, as a matter of right, cannot ask for further extension of lease period, as facts of the case would disclose that he managed to run the Community Hall constructed by the first respondent for nine years. Therefore, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

jvm
To

1. The Commissioner,
Udumalpet Municipality,
Udumalpet.
2. The Revenue Divisional Officer,
Udumalpet, Tiruppur District.

+1cc to M/s.Waraon and Sai Rams, Advocate, S.R.No.31709
+1cc to Mr.A.S.Thambuswamy, Advocate, S.R.No.31810

W.P.No.19784 of 2016

SNS (CO)

CA/23/06/2016)