

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:02.12.2016

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The Honourable MR. JUSTICE N.KIRUBAKARAN

W.P.No.21826 of 2016
and W.M.P.Nos.18682 and 18683 of 2016

Y.Shajahan

[Petitioner]

Vs

- 1 The Secretary to the Govt.
Department of Municipal Administration and
Water Supply
Secretariat, Fort St. George
Chennai-600 009.
 - 2 The Commissioner of Municipal
Administration,
Department of Municipal
Administration and Water Supply
Ezhilagam, Chennai.
 - 3 The Commissioner
Mettupalayam Municipality Mettupalayam
Coimbatore District.
- [Respondents]

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the entire records connected with the proceedings of 3rd respondents Notice Na.Ka. No.780/2016/A1 dated 16.06.2016 and quash the same consequently direct the 3rd respondent to renew the license for the fruit stall shop No.52 which is situated at New Jawhar Bus Stand Mettupalayam from 01.04.2015 to 31.03.2018 with enhancement rent of 15% in pursuant of 1st respondents G.O.No.92 dated 03.07.2007.

For Petitioner : Mr.P.Saravanan
For Respondents : Mr.P.V.Selvakumar, AGP (R1&2)
Mr.A.S.Thambuswamy (R3)

ORDER

The petitioner, who is a license holder to sell fruits in Shop No.52 in Mettupalayam Municipality, has come before this Court challenging the demand notice dated 16.06.2016 issued by the 3rd respondent enhancing the present monthly rent of

Rs.7,367/- to Rs.39,200/- for the purpose of extension of license. As an interim measure, this Court permitted the petitioner to pay a sum of Rs.14,367/- as rent.

2. After arguing the matter at length, the petitioner has undertaken to pay the amount fixed by the 3rd respondent and he has filed an affidavit dated 02.12.2016. Paragraph No.5 of the affidavit is extracted hereunder:

"5. I humbly submit that, The Hon'ble Court was pleased to pass an order in W.P.21826/2016 by an order dated 24.06.2016. "6. Though the petitioner prayed for interim injunction, there shall be an order of ad interim stay, subject to the conditions that, without prejudice to the rights and contentions of either parties the petitioner shall deposit a further sum of Rs.7,000/- every month, apart from the rent already been paid, commencing from June 2016 onwards, till the disposal of the writ petition. If the petitioner fails to deposit the said rent amount even for a month the interim order granted herein shall stand automatically vacated without any further reference to this Court".

As per the direction of Hon'ble High Court, I have paid Rs.14,367/- each and every month without any default. I am also undertake to pay enhancement rent which was specified in the impugned order by the 3rd respondent (i.e. Rs.39,200/-) per month. However, I am not able to mobilize the caution deposit Rs.4,70,400/- as specified in impugned Notice. Already I have deposited caution deposit Rs.60,000/- with 3rd respondent for renewal of license from time to time. Hence I pray that the Hon'ble Court may be pleased to direct the 3rd respondent to grant 8 weeks time for paying balance caution deposit and direct the 3rd respondent to remove the petitioner's shop No.52 which is situated at Jawahar Bus Stand, Mettupalayam in the auction by 3rd respondent".

3. From the above, it is very clear that the petitioner has agreed to pay a sum of Rs.39,200/- and the caution deposit of Rs.4,70,400/- after adjusting a sum of Rs.60,000/-, which has already been deposited with the respondent Municipality. Apart

from the above amount, the petitioner is liable to pay the monthly license fee at the rate of Rs.39,200/- right from July 2016.

4. In view of the fact that the petitioner has to pay the above amounts, this Court is of the view that the petitioner should be given sufficient time to pay the same.

5. Accordingly, the following order is passed:-

i) The petitioner is directed to pay a sum of Rs.39,200/-per month as monthly license fee right from July 2016 onwards for three years.

(ii) The caution deposit amount of Rs.4,70,400/- has to be deposited by the petitioner, after adjusting a sum of Rs.60,000/- which is already said to have been deposited by the petitioner to the respondent, subject to production of proof.

(iii) The petitioner is directed to pay the arrears from July 2016 till date and the balance caution deposit amount, within a period of eight weeks from the date of receipt of a copy of this order. On such payment, the respondents shall execute the licence agreement for 3 years commencing from July 2016.

(iv) In case, the petitioner fails to make the payment as per the above schedule, the respondents are at liberty to take possession of the property, with police force, after granting one month time to the petitioner.

The writ petition is disposed of accordingly. No costs.
Connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

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Sub-Assistant Registrar

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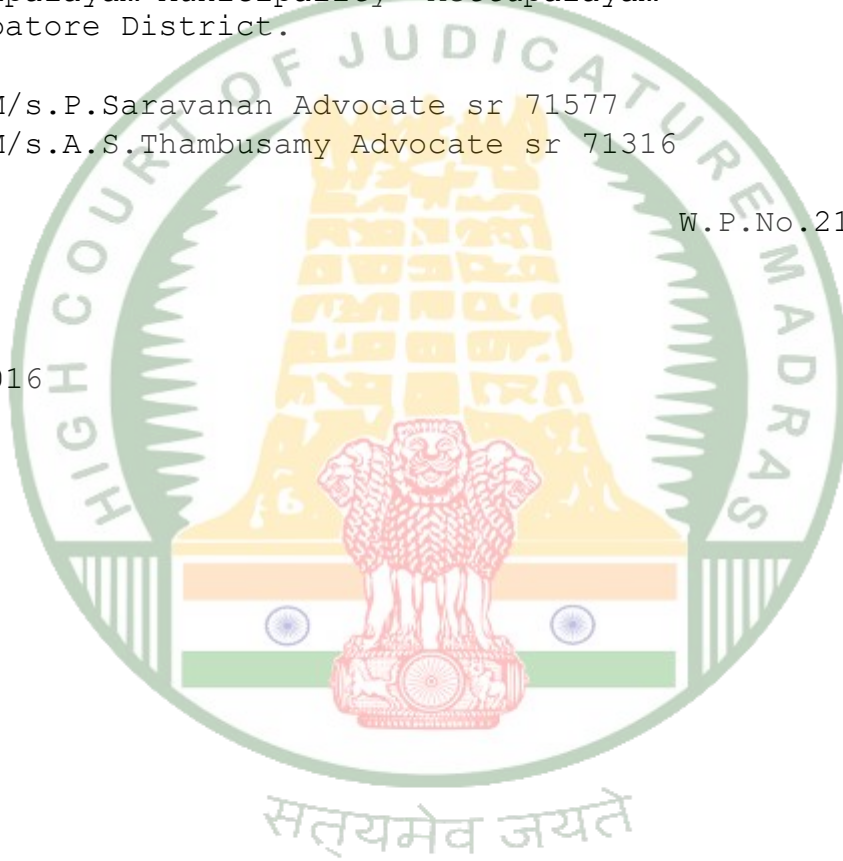
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+1 cc to M/s.P.Saravanan Advocate sr 71577

+1 cc to M/s.A.S.Thambusamy Advocate sr 71316

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