

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2016

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 24211 of 2016

&

W.M.P. Nos.20687 & 20688 of 2016

V. Natarajan

..Petitioner

Vs.

1. The Secretary,
Local Administration and Municipality,
Secretariat,
Chennai - 600 009.
2. The Commissioner,
Salem Corporation,
Salem.
3. The Assistant Commissioner,
Ammappettai Ward Office,
Salem Corporation,
Salem.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorari to call for the records of the 2nd respondent relating to the eviction notice dated 04.07.2016 in pursuance of the paper publication made in Thina Thanthi on 03.07.2016 in connection with the public auction and tender for shops and quash the same.

For Petitioner ::Mr.V. Nithiyanandam

For Respondents::Mr.V. Jayaprakash Narayanan,
Special Govt. Pleader for R1
Mr.S. Diwakar,
Special Govt. Pleader for R2

O R D E R

The petitioner is running a tractor spare parts shop, under the name and style of "Rajan Tractor" at No.18, Bose Maithan Shops, near old bus stand, Salem - 600 001, right from

1996 onwards and from the date of inception of lease, he has been paying the lease amount regularly to the 2nd respondent, without any default. According to the petitioner, as per G.O.Ms. No. 92 Municipal Administration and Water Supply (NaNi4) Department dated 03.07.2007, the rent payable by the lessees of shops under the 2nd respondent should be revalued after nine years from the date of coming into force of the said G.O. and if the lease holders agree for revaluation of lease amount fixed by the 2nd respondent, the lease period should be extended to lease holders. While so, by communication dated 05.04.2016, in Na.Ka.L8/676/2016, pursuant to Resolution No. 304 dated 22.02.2016 passed in connection with public auction and tender for shops, by the 2nd respondent Corporation, the petitioner was informed that the monthly rent for his shop has been fixed as Rs.23,700/- and a sum of Rs.3 lakhs has been fixed as caution deposit and the petitioner was asked to give his reply with regard to the same so as to enable the 2nd respondent Corporation to take a decision in regard thereto, ie., either to extend the lease or to bring the shop for public auction. Since there was no reply sent by the petitioner, the 2nd respondent, effected paper publication in THINA THANTHI dated 03.07.2016 proposing to conduct public auction in respect of the petitioner's shop as well as other shops and subsequently, an eviction notice dated 04.07.2016 was also served on the petitioner on 09.07.2016 calling upon him to vacate the premises and hand over possession by 12.07.2016, failing which, it was informed that the 2nd respondent would take possession of the petitioner's shop forcefully on 13.07.2016 as per the rules of the Corporation without any further reference. Challenging the eviction notice dated 04.07.2016 and the paper publication dated 03.07.2016 proposing to conduct auction, the petitioner is before this Court.

2. When the matter is taken up for hearing today, Mr.V. Nithiyanandam, learned counsel for the petitioner submitted that the petitioner is agreeable for payment of Rs.23,700/- towards montly rent. However, he seeks further time to pay the caution deposit of Rs.3 lakhs. In this regard, the petitioner has also filed an affidavit dated 20.07.2016 seeking four weeks' time to make the caution deposit.

3. Mr.S. Diwakar, learned Special Government Pleader appearing for the 2nd respondent Corporation expressed no objection for granting the time sought by the petitioner.

4. Since the petitioner has agreed to pay the monthly rent, fixed by the respondent corporation and only seeks time to pay the caution deposit, some concession has to be given regarding the payment of caution deposit. Accepting the affidavit filed by the petitioner, especially, paragraph No.3, this Court grants six weeks' time from the date of receipt of a copy of this

order to pay the caution deposit of Rs.3 lakhs fixed by the 2nd respondent Corporation.

5. In view of the above development, the auction notice dated 04.07.2016 shall not cover the petitioner's shop at No.18, Bose Maithan Shops, near old bus stand, Salem - 600 001 alone and the petitioner is directed to pay the monthly rent of Rs.23,700/- and the caution deposit of Rs.3 lakhs shall be paid within a period of six weeks from the date of receipt of a copy of this order. The new monthly rent shall be payable by the petitioner from the date of execution of the lease agreement between the petitioner and the 2nd respondent. The writ petition is disposed of accordingly. No costs. Connected W.M.Ps are closed.

nv

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Secretary,
Local Administration and Municipality,
Secretariat,
Chennai - 600 009.
2. The Commissioner,
Salem Corporation,
Salem.
3. The Assistant Commissioner,
Ammappettai Ward Office,
Salem Corporation,
Salem.

+ 1 cc to Mr.S.Diwakar, Advocate Sr 41630

+ 1 cc to M/s.Star Associates, Advocate Sr 41751

+ 1 cc to The Govt. Pleader, Sr 41680

KR/26/7/16

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